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TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10293

AMENDING EXECUTIVE ORDER NO. 10276 WITH RESPECT TO THE ADMINISTRATION OF TITLE I OF THE HOUSING AND RENT ACT OF 1947, AS AMENDED

By virtue of the authority vested in me by the Constitution and statutes, including section 208 (a) of the Housing and Rent Act of 1947, as amended, and as President of the United States and Commander in Chief of the armed forces of the United States, it is ordered that paragraph 1 (b) of Executive Order No. 10276 of July 31, 1951 (16 F. R. 7535) shall be, and it is hereby, amended, effective as of the effective date of the said Executive Order No. 10276, to read as follows:

"(b) All powers, duties, and functions conferred upon the President by Title I of the Housing and Rent Act of 1947, as amended, exclusive of section 4 (e) thereof, as amended, shall be administered through the aforesaid Economic Stabilization Agency and may be exercised and performed by the Economic Stabilization Administrator or, subject to his direction and control, by such officers and agencies of the Economic Stabilization Agency as the said Administrator shall designate: *Provided*, That so much of the said powers, duties, and functions as consists of granting exceptions to the provisions of section 4 of Title I of the Housing and Rent Act of 1947, as amended, and to any regulations issued pursuant thereto, for persons engaged in national defense activities shall be exercised and performed in such consultation with the Housing and Home Finance Administrator or his representative as the Economic Stabilization Administrator and the Housing and Home Finance Administrator shall from time to time jointly determine."

HARRY S. TRUMAN

THE WHITE HOUSE,
September 27, 1951.

[F. R. Doc. 51-11797; Filed, Sept. 27, 1951; 2:52 p. m.]

EXECUTIVE ORDER 10294

DESIGNATING ADDITIONAL AGENCIES PURSUANT TO SECTION 103 (a) OF THE RENEGOTIATION ACT OF 1951

By virtue of the authority vested in me by the Renegotiation Act of 1951 (Public Law 9, 82d Congress), hereinafter referred to as the Act, and as President of the United States, it is ordered as follows:

1. The Defense Materials Procurement Agency, the Bureau of Mines, and the (United States) Geological Survey, each of which exercises functions having a direct and immediate connection with the national defense, are hereby designated, pursuant to section 103 (a) of the Act, as agencies of the Government included within the definition of the term "Department" for the purposes of Title I of the Act.

2. In accordance with section 102 of the Act, the provisions of Title I of the Act shall be applicable to all contracts with the Defense Materials Procurement Agency, the Bureau of Mines, and the (United States) Geological Survey, respectively, and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of October 1951, whether such contracts or subcontracts were made on, before, or after that date.

HARRY S. TRUMAN

THE WHITE HOUSE,
September 28, 1951.

[F. R. Doc. 51-11856; Filed, Sept. 28, 1951; 11:36 a. m.]

TITLE 7—AGRICULTURE

Chapter II—Production and Marketing Administration (School Lunch Program), Department of Agriculture

PART 210—REGULATIONS AND PROCEDURE

APPORTIONMENT OF FOOD ASSISTANCE FUNDS PURSUANT TO NATIONAL SCHOOL LUNCH ACT, FISCAL YEAR 1952

Pursuant to section 4 of the National School Lunch Act (60 Stat. 230) food assistance funds available for the fiscal

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

year ending June 30, 1952, are apportioned among the States as follows:

State	Total	State agency	Withheld for private schools
Alabama	$2,476,367	$2,417,878	$58,489
Arizona	383,802	363,046	20,756
Arkansas	1,535,127	1,507,762	27,365
California	2,826,697	2,826,697	
Colorado	516,642	471,599	45,043
Connecticut	515,026	515,026	
Delaware	84,489	70,885	13,604
District of Columbia	154,434	154,434	
Florida	1,197,452	1,154,013	43,439
Georgia	2,297,469	2,297,469	
Idaho	287,615	279,167	8,448
Illinois	2,352,722	2,352,722	
Indiana	1,430,417	1,430,417	
Iowa	988,933	888,061	100,872
Kansas	746,954	746,954	
Kentucky	2,083,856	2,083,856	
Louisiana	1,619,286	1,619,286	
Maine	434,973	358,889	76,084
Maryland	791,323	650,900	140,423
Massachusetts	1,386,446	1,386,446	
Michigan	2,211,408	1,875,086	336,322
Minnesota	1,206,870	1,039,743	167,127
Mississippi	2,185,658	2,185,658	
Missouri	$1,402,200	$1,402,200	
Montana	205,916	187,677	$18,239
Nebraska	477,615	429,225	48,390
Nevada	42,306	41,705	601
New Hampshire	208,302	208,302	
New Jersey	1,308,697	1,061,045	247,652
New Mexico	419,604	419,604	
New York	3,750,406	3,750,406	
North Carolina	2,883,099	2,883,099	
North Dakota	297,400	269,106	28,294
Ohio	2,435,080	2,103,696	331,384
Oklahoma	1,260,228	1,260,228	
Oregon	512,138	512,138	
Pennsylvania	3,610,987	2,978,286	632,701
Rhode Island	233,741	233,741	
South Carolina	1,826,302	1,803,779	22,523
South Dakota	289,063	265,306	23,757
Tennessee	2,223,479	2,169,669	53,810
Texas	3,397,057	3,397,057	
Utah	355,722	350,809	4,913
Vermont	176,413	176,413	
Virginia	1,714,715	1,661,899	52,816
Washington	727,820	685,938	41,882
West Virginia	1,262,763	1,235,128	27,635
Wisconsin	1,278,574	1,010,130	268,444
Wyoming	110,382	110,382	
Subtotal	62,123,975	59,282,962	2,841,013
Alaska	13,419	13,419	
Hawaii	96,139	75,423	20,716
Puerto Rico	2,353,944	2,353,944	
Virgin Islands	37,523	37,523	
Sub-total	2,501,025	2,480,309	20,716
Total	64,625,000	61,763,271	2,861,729

(Sec. 2, 60 Stat. 230; 42 U. S. C. 1751–1760)

Dated: September 26, 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-11746; Filed, Sept. 28, 1951; 8:48 p. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 904—MILK IN THE GREATER BOSTON, MASS., MARKETING AREA

ORDER AMENDING THE ORDER, AS AMENDED

Sec.

AUTHORITY: Sections 904.1 to 904.84 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 904.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and

of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth in this subpart.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed amendment to the order, as amended, regulating the handling of milk in the Greater Boston, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expenses, 3 cents per hundredweight or such amount not exceeding 3 cents per hundredweight as the Secretary may prescribe, with respect to all of his receipts of milk from producers (including such handler's own production), and his receipts of outside milk.

(b) *Additional findings.* It is necessary to make the present amendment to the said order, as amended, effective not later than October 1, 1951, to reflect current marketing conditions. Any further delay in the effective date of this order, amending the said order, as amended, will seriously disrupt the orderly marketing of milk for the Greater Boston, Massachusetts, marketing area. The changes effected by this order amending the order, as amended, do not require of persons affected substantial or extensive preparation prior to the effective date. In view of the foregoing, it is impractical, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order, as amended, and as hereby further amended) of more than 50 percent of the volume of milk covered by this order, as amended, and as hereby further amended, which is marketed within the said marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act, of advancing the interests of the producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this amending order is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during March 1951 (said month having been determined to be a representative period), were engaged in the production of milk for sale in the said marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Greater Boston, Massachusetts marketing area shall be in conformity to and in compliance with the following terms and conditions:

DEFINITIONS

§ 904.1 *General definitions.* (a) "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(b) "Greater Boston, Massachusetts, marketing area", also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns.

Arlington	Newton
Belmont	Peabody
Beverly	Quincy
Boston	Reading
Braintree	Revere
Brookline	Salem
Cambridge	Saugus
Chelsea	Somerville
Dedham	Stoneham
Everett	Swampscott
Lexington	Wakefield
Lynn	Waltham
Malden	Watertown
Marblehead	Wellesley
Medford	Weymouth
Melrose	Winchester
Milton	Winthrop
Nahant	Woburn
Needham	

(c) "Month" means a calendar month.

(d) "Marketing year" means the twelve months' period from August 1 of each year through July 31 of the following year.

(e) "Emergency period" means the period of time for which the market administrator declares that an emergency exists in that the milk supply available to the marketing area from producers is insufficient to meet the demand for Class I milk in the marketing area.

§ 904.2 *Definitions of persons.* (a) "Person" means any individual, partnership, corporation, association, or any other business unit.

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and perform the duties of the Secretary of Agriculture.

(c) "Dairy farmer" means any person who delivers bulk milk of his own production to a plant.

(d) "Dairy farmer for other markets" means any dairy farmer whose milk is received by a handler at a pool plant during April, May, June, or July from a farm from which the handler, an affiliate of the handler, or any person who controls or is controlled by the handler, received nonpool milk on more than 3 days in any one of the preceding months of August through March, except that the term shall not include any person who was a producer-handler or a person delivering to a New York order pool plant during any of the preceding months of August through March.

(e) "Producer" means any dairy farmer whose milk is delivered from his farm to a pool plant, except a dairy farmer for other markets and a dairy farmer with respect to exempt milk delivered. The term shall also include a dairy farmer with respect to his operation of a farm from which milk is ordinarily delivered to a handler's pool plant, but whose milk is diverted to another plant, if the handler, in filing his monthly report pursuant to § 904.30, reports the milk as receipts from a producer at such pool plant and as moved to the other plant. The term shall not apply to a dairy farmer who is a producer under the Springfield, Lowell-Lawrence, or Worcester orders, with respect to milk diverted from the plant subject to the other order to which the dairy farmer ordinarily delivers.

(f) "Handler" means any person who, in a given month, operates a pool plant, or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area.

(g) "Pool handler" means any handler who operates a pool plant.

(h) "Buyer-handler" means any handler who operates a bottling or processing plant from which more than 10 per cent of his total receipts of fluid milk products other than cream is disposed of by him as Class I milk in the marketing area, and whose entire supply of fluid milk products is received from other handlers.

(i) "Producer-handler" means any person who is both a handler and a dairy farmer and who receives milk of his own production only from farms located within 80 miles of the State House in Boston, and who receives no milk other

than exempt milk from other dairy farmers except producer-handlers.

(j) "Dealer" means any person who operates a plant at which he engages in the business of distributing fluid milk products, or manufacturing milk products, whether or not he disposes of any fluid milk products in the marketing area.

(k) "Consumer" means any person to whom fluid milk products are disposed of, except a dealer. The term "consumer" includes, but is not limited to, stores, restaurants, hotels, bakeries, hospitals and other institutions, candy manufacturers, soup manufacturers, livestock farmers, and similar persons who are not necessarily the ultimate users. The term also includes any dealer in his capacity as the operator of any of these establishments, and in connection with any other use or disposition of fluid milk products not directly related to his operations as a dealer.

§ 904.3 *Definitions of plants.* (a) "Plant" means the land, buildings, surroundings, facilities, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, handling, or processing of milk or milk products.

(b) "City plant" means any plant which is located not more than 40 miles from the State House in Boston.

(c) "Country plant" means any plant which is located more than 40 miles from the State House in Boston.

(d) "Receiving plant" means any plant currently used for receiving, weighing or measuring, sampling, and cooling milk received there directly from dairy farmers' farms and for washing and sterilizing the milk cans in which such milk is received, and at which are currently maintained weight sheets or other records of dairy farmers' deliveries.

(e) "Pool plant" means any receiving plant which, in a given month, meets the conditions and requirements set forth in § 904.20 for being considered a pool plant in that month.

(f) "Regulated plant" means any pool plant; any pool handler's plant which is located in the marketing area and from which Class I milk is disposed of in the marketing area; and any plant operated by a handler in his capacity as a buyer-handler or producer-handler.

(g) "Distributing plant" means any plant from which Class I milk in the form of milk is disposed of to consumers in the marketing area without intermediate movement to another plant.

(h) "New York order pool plant" means any plant designated as a pool plant in accordance with the provisions of Order No. 27, issued by the Secretary, regulating the handling of milk in the New York metropolitan marketing area.

§ 904.4 *Definitions of milk and milk products.* (a) "Milk" means the commodity received from a dairy farmer at a plant as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of 1 percent but less than 16 percent, frozen milk, and reconstituted milk.

(b) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term "cream" also includes sour cream, frozen cream, and milk and cream mixtures containing 16 percent or more of butterfat.

(c) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of 1 percent of butterfat.

(d) "Fluid milk products" means milk, flavored milk, cream, skim milk, flavored skim milk, cultured skim milk, buttermilk, and concentrated milk, either individually or collectively.

(e) "Pool milk" means milk, including fluid milk products derived therefrom, which a handler has received as milk from producers.

(f) "Outside milk" means:

(1) All milk received from dairy farmers for other markets;

(2) All fluid milk products other than cream received at a regulated plant from an unregulated plant up to the total quantity of nonpool milk received at the unregulated plant, except exempt milk, emergency milk and receipts from New York order pool plants which are assigned to Class I milk pursuant to § 904.27;

(3) All Class I milk, after subtracting receipts of Class I milk from regulated plants, which is disposed of to consumers in the marketing area from an unregulated plant, without its intermediate movement to another plant.

(g) "Emergency milk" means fluid milk products, other than cream, received at a regulated plant during an emergency period from a plant which was an unregulated plant in the month immediately preceding the month in which the emergency period became effective.

(h) "Concentrated milk" means any unsterilized liquid milk product, other than those products commonly known as evaporated milk and sweetened condensed milk, which is obtained by the evaporation of water from milk and milk to which any other milk product may be added in the process of manufacture. For purposes of this part the weight of the fluid milk products used to produce the concentrated milk shall be used rather than the actual weight of the concentrated milk.

(i) "Exempt milk" means milk which is received at a regulated plant:

(1) In bulk from an unregulated plant or from the dairy farmer who produced it, for processing and bottling, and for which an equivalent quantity of packaged milk is returned to the dairy farmer or to the operator of the unregulated plant during the same month, or

(2) In packaged form from an unregulated plant in return for an equivalent quantity of bulk milk moved from a regulated plant for processing and bottling during the same month.

MARKET ADMINISTRATOR

§ 904.10 *Designation of market administrator.* The agency for the administration of this subpart shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 904.11 *Powers of market administrator.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and

(d) To recommend to the Secretary amendments to it.

§ 904.12 *Duties of market administrator.* The market administrator, in addition to the duties described in other sections of this subpart, shall:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to exercise his powers and perform his duties;

(c) Pay, out of the funds provided by § 904.77, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(d) Keep such books and records as will clearly reflect the transactions provided for in this order and surrender the same to his successor, or to such other person as the Secretary may designate;

(e) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this subpart;

(f) Promptly verify the information contained in the reports submitted by handlers; and

(g) Give each of the producers delivering to a plant, as reported by the handler, prompt written notice of his actual or potential loss of producer status for the first month of the marketing year in which the plant's status has changed or is changing to that of a nonpool plant.

CLASSIFICATION

§ 904.15 *Classes of utilization.* All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 904.16, 904.17, and 904.18, the classes of utilization shall be as follows:

(a) Class I milk shall be all fluid milk products the utilization of which is not established as Class II milk.

(b) Class II milk shall be all fluid milk products the utilization of which is established:

(1) As being sold, distributed, or disposed of other than as or in milk; and other than as or in concentrated milk for fluid consumption, flavored milk or flavored skim milk, buttermilk, or cultured skim milk, for human consumption; and

(2) As plant shrinkage, not in excess of 2 percent of the volume handled.

§ 904.16 *Classification of milk and milk products utilized at regulated plants of pool handlers.* All milk and milk products received at a regulated plant of any pool handler shall be classified in accordance with their utilization at such plant, except as provided otherwise in § 904.17.

§ 904.17 *Classification of fluid milk products, other than cream, moved to other plants.* Any fluid milk product, except cream, which is moved from the regulated plant of a pool handler to any other plant shall be classified as follows:

(a) If moved to any other regulated plant, except a producer-handler's plant, it shall be classified in accordance with its utilization at the plant to which it is moved.

(b) If moved to a producer-handler's plant or an unregulated plant, it shall be classified as Class I milk up to the total quantity of milk, or the same form of fluid milk products so moved, which is utilized as Class I milk at that plant.

(c) If moved to a regulated plant of a nonpool handler or to an unregulated plant, and thence to another such plant, it shall be classified as Class I milk.

§ 904.18 *Responsibility of handlers in establishing the classification of milk.* In establishing the classification of any milk received by a handler from producers, the burden rests upon the handler who receives the milk from producers to account for the milk and to prove that such milk should not be classified as Class I milk.

DETERMINATION OF POOL PLANT STATUS

§ 904.20 *Basic requirements for pool plant status.* Subject to the provisions of § 904.21 each receiving plant shall be a pool plant in the first month in which the handler operates it in conformity with the basic requirements specified in this section, and shall thereafter be a pool plant for the remaining months of the marketing year in which it is operated by the same handler. The basic requirements for acquiring pool plant status shall be as follows:

(a) A majority of the dairy farmers delivering milk to the plant hold certificates of registration issued pursuant to Chapter 94, Sections 16C and 16G, of the Massachusetts General Laws.

(b) The handler operating the plant holds a license which has been issued by the milk inspector of a city or town in the marketing area, pursuant to Chapter 94, Section 40, of the Massachusetts General Laws, or a majority of the dairy farmers delivering milk to the plant are approved by such an inspector as sources of supply for milk for sale in his municipality.

(c) Class I milk in the form of milk is disposed of in the marketing area from the plant.

(d) The handler's total Class I milk in the marketing area exceeds 10 percent of his total receipts of fluid milk products other than cream.

§ 904.21 *Conditions resulting in nonpool plant status.* Each receiving plant shall be a nonpool plant under any of the following conditions:

(a) Each plant which has acquired pool plant status but from which no Class I milk in the form of milk is disposed of in the marketing area for two successive months in the marketing year shall be a nonpool plant in the second of the two months and for each consecutive succeeding month of the marketing year during which no such Class I disposition is made.

(b) Each nondistributing plant for which the market administrator has received on or before the 16th day of the preceding month the handler's written request for nonpool plant designation shall be a nonpool plant in each month of the marketing year to which the request applies.

(c) Each city distributing plant operated by a handler who operates no other plant which is a pool plant in the same month shall be a nonpool plant in any month in which the handler's total Class I milk in the marketing area does not exceed 10 percent of his total receipts of fluid milk products other than cream.

(d) Each plant which is operated as the plant of a producer-handler shall be a nonpool plant in any month in which it is so operated.

(e) Each plant which is operated as a New York order pool plant or as a plant from which emergency milk is received shall be a nonpool plant during the month or portion of a month of such operation.

(f) Each of a handler's plants which is a nonpool receiving plant during any of the months of August through March shall be a nonpool plant in any of the months of April through July of the same marketing year in which it is operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, unless its operation during August through March was in the handler's capacity as a producer-handler or as the operator of a New York order pool plant which had been acquired by him after June 30 of the immediately preceding marketing year.

§ 904.22 *Disposition of Class I milk in the form of milk in the marketing area.* For the purpose of determining whether a plant has met the conditions and requirements for being considered a pool plant, each plant from which milk is moved at some time during the month to another plant from which Class I milk in the form of milk is disposed of in the marketing area shall itself be considered to have made such a disposition, except that no movement of milk to any unregulated nondistributing plant shall be considered a disposition of Class I milk in the form of milk in the marketing area.

§ 904.23 *Total receipts of fluid milk products other than cream.* For the purpose of determining whether a plant has met the conditions and requirements for being considered a pool plant, each handler's total receipts of fluid milk products other than cream, referred to in this section as "total receipts", shall be determined as follows:

(a) For each month of the marketing year until and including the first month in which the handler is a pool handler, his total receipts shall be the receipts at all plants from which Class I milk in the form of milk is disposed of in the marketing area, except his receipts at any plant which fails to meet the applicable standards set forth in § 904.20 (a) and (b), or which is a nonpool plant pursuant to § 904.21 (b).

(b) For each of the other months of the marketing year, the handler's total receipts shall be the total receipts determined pursuant to paragraph (a) of this section plus the receipts at any other of his plants which is a pool plant in such month.

ASSIGNMENT OF RECEIPTS TO CLASSES

§ 904.25 *General assignment provisions.* Except as provided in §§ 904.26 through 904.29, all receipts of fluid milk products, other than receipts from producers, shall be assigned to Class I milk or Class II milk as follows:

(a) Receipts as to which Class II use is established shall be assigned to Class II milk.

(b) All other receipts shall be assigned to Class I milk.

§ 904.26 *Assignment of receipts of exempt milk.* All receipts of exempt milk shall be assigned to Class I milk.

§ 904.27 *Assignment of receipts from New York order pool plants.* Receipts from New York order pool plants shall be assigned to Class II milk, except as provided in § 904.28, and except that receipts during the months of August through March which are classified in Class I–A or I–B under the New York order shall be assigned to Class I milk.

§ 904.28 *Assignment of receipts of emergency milk.* Emergency milk received by a handler whose total use of Class II milk is in excess of 10 percent of the total volume of fluid milk products, other than cream, handled by him shall be assigned to Class II milk to the extent of such excess. For the purpose of this section, the handler's total Class II milk and total volume handled shall be the total of the respective quantities from the first day on which emergency milk is received by the handler during the month up to and including the last such day in the month. If the quantity of emergency milk as to which specific Class II use is established is greater than the quantity otherwise assigned to Class II milk pursuant to this section, such greater quantity shall be assigned to Class II milk. Receipts of emergency milk not assigned to Class II milk shall be assigned to Class I milk.

§ 904.29 *Assignment of other types of receipts.* (a) All receipts of outside milk shall be considered as receipts of Class II milk, and shall be assigned to that class without regard to the specific use of such receipts.

(b) All receipts of cream, and milk products other than fluid milk products, shall be assigned to Class II milk.

(c) All receipts of skim milk from producer-handlers shall be assigned to Class II milk.

REPORTS OF HANDLERS

§ 904.30 *Pool handlers' reports of receipts and utilization.* On or before the 8th day after the end of each month

each pool handler shall, with respect to the fluid milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production;

(b) The receipts of fluid milk products at each plant from any other handler, assigned to classes pursuant to §§ 904.25 through 904.29;

(c) The receipts of outside milk and exempt milk at each plant; and

(d) The respective quantities which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 904.15 through 904.18.

§ 904.31 *Reports of nonpool handlers.* Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products. The reports shall be made at the time and in the manner prescribed by the market administrator, except that any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

§ 904.32 *Reports regarding individual producers.* (a) Within 20 days after a producer moves from one farm to another, or starts or resumes deliveries to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

§ 904.33 *Reports of payments to producers.* Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer pay roll for such month, which shall show for each producer:

(a) The daily and total pounds of milk delivered with the average butterfat test thereof; and

(b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

§ 904.34 *Outside cream purchases.* Each handler shall report, as requested by the market administrator, his purchases, if any, of bottling quality cream from nonpool handlers, showing the quantity and the source of each such purchase and the cost thereof at Boston.

§ 904.35 *Maintenance of records.* Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

§ 904.36 *Verification of reports.* For the purpose of ascertaining the correctness of any report made to the market administrator as required by this subpart or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(a) Verify the information contained in reports submitted in accordance with this order;

(b) Weigh, sample, and test milk and milk products; and

(c) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

§ 904.37 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

MINIMUM CLASS PRICES

§ 904.40 *Class I prices.* For Class I milk received from producers, each pool handler shall pay, in the manner set forth in §§ 904.60 through 904.67 and subject to the differentials applicable pursuant to §§ 904.42 and 904.43 not less than the price per hundredweight determined for each month pursuant to this section. In determining the Class I price for each month the latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday, the latest figures available on the next succeeding work day shall be used.

(a) Divide by 0.98 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the year 1926 as the base period.

(b) Divide by 3 the sum of the three latest monthly indexes of department store sales in the Boston Federal Reserve District adjusted for seasonal variations, as reported by the Federal Reserve System, with the years 1935–39 as the base period, and divide the result so obtained by 1.26.

(c) Compute an index of grain-labor costs in the Boston milkshed in the following manner:

(1) Compute the simple average of the four latest weekly average retail prices per ton of dairy ration in the Boston milkshed, as reported by the United States Department of Agriculture, divided by 0.5044, and multiply by 0.6.

(2) For each of the States of Maine, Massachusetts, New Hampshire, and Vermont, compute the simple average, on a monthly equivalent basis, of the following farm wage rates reported by the United States Department of Agriculture: The rate per month with board and room; the rate per month with house; the rate per week with board and room; the rate per week without board or room; and the rate per day without board or room. To convert the weekly rates and the daily rate to monthly equivalents, multiply the weekly rates by 4.33 and the daily rate by 26. From the simple averages, compute a combined weighted average monthly rate, using the following weights: Maine, 10; Massachusetts, 6; New Hampshire, 7; and Vermont, 77. Divide the weighted average monthly rate by 0.6394, and multiply the result by 0.4.

(3) Add the results determined pursuant to subparagraphs (1) and (2) of this paragraph.

(d) Divide by 3 the sum of the final results computed pursuant to the preceding paragraphs of this section. Express the result as a whole number by dropping fractions of less than one-half or by raising fractions of one-half or more to the next whole number. The result shall be known as the formula index.

(e) Subject to the succeeding paragraphs of this section, the Class I price per hundredweight for milk received from producers at plants located in the 201–210-mile zone shall be as shown in the following table.

CLASS I PRICE SCHEDULE

Formula index	Class I price per hundredweight		
	Jan., Feb., Mar., July, Aug., Sept.	Apr., May, June	Oct., Nov., Dec.
50–56	$1.69	$1.25	$2.13
57–63	1.91	1.47	2.35
64–70	2.13	1.69	2.57
71–77	2.35	1.91	2.79
78–84	2.57	2.13	3.01
85–90	2.79	2.35	3.23
91–97	3.01	2.57	3.45
98–104	3.23	2.79	3.67
105–111	3.45	3.01	3.89
112–118	3.67	3.23	4.11
119–125	3.89	3.45	4.33
126–132	4.11	3.67	4.55
133–139	4.33	3.89	4.77
140–146	4.55	4.11	4.99
147–152	4.77	4.33	5.21
153–159	4.99	4.55	5.43
160–166	5.21	4.77	5.65
167–173	5.43	4.99	5.87
174–180	5.65	5.21	6.09
181–187	5.87	5.43	6.31
188–194	6.09	5.65	6.53

If the formula index is more than 194 the price shall be increased at the same rate as would result from further extension of this table at the rate of extension in the six highest index brackets.

(f) The Class I price shall be 44 cents more than the price prescribed in paragraph (e) of this section if less than 33 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this paragraph would cause the Class I price to be more than 88 cents above the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent increase as will result in a Class I price equal to the Class I price for the same month of the preceding year plus 88 cents.

(g) The Class I price shall be 44 cents less than the price prescribed in paragraph (e) of this section if more than 41 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this paragraph would cause the Class I price to be more than 88 cents below the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent reduction as will result in a Class I price equal to the Class I price for the same month of the preceding year minus 88 cents.

(h) Notwithstanding the provisions of the preceding paragraphs of this section, the Class I price for any of the months of March through June of each year shall not be higher than the Class I price for the immediately preceding month, and the Class I price for any of the months of September through December of each year shall not be lower than the Class I price for the immediately preceding month.

§ 904.41 *Class II prices.* For Class II milk received from producers, each pool handler shall pay, in the manner set forth in §§ 904.60 through 904.67 and subject to the differentials set forth in § 904.42 and § 904.43, and the adjustments applicable pursuant to § 904.44, not less than the price per hundredweight determined for each month pursuant to this section.

(a) Subject to § 904.43 (c), subtract 52.5 cents from the weighted average price per 40-quart can of 40 percent bottling quality cream, F. O. B. Boston, as reported by the United States Department of Agriculture for the month during which such milk is received, divide the remainder by 33, multiply by .98, and multiply the result by 3.7. If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price: Compute the simple average of the differences between the cream prices reported for the latest three months and the monthly averages of the daily prices, using the mid-point of any range as one price, for Grade A (92-score) butter at wholesale in the Chicago market, as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above multiplied by 33 and 1.22 for the current pricing month.

(b) Multiply by 7.85 the simple average of the prices per pound of roller process and spray process nonfat dry milk solids for human consumption, in carlots, F. O. B. Chicago area manufacturing plants, as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the month during which such milk is delivered.

(c) Add the results obtained in paragraphs (a) and (b) of this section, and from the sum subtract the amount shown below for the applicable month, adjusted pursuant to paragraph (d) of this section. The result is the Class II price per hundredweight for milk received from producers at plants located in the 201–210 railroad freight mileage zone.

Month:	*Amount (cents)*
January and February	67
March and April	79
May and June	85
July	79
August and September	73
October, November, and December	67

(d) For each month following the first month for which the amount determined pursuant to this paragraph is greater than 5 cents, the amount to be subtracted pursuant to paragraph (c) of this section shall be reduced by any plus amount determined as follows:

(1) Compute the simple average of the prices reported by the United States Department of Agriculture for milk for manufacturing purposes, f. o. b. plants United States, for each of the 12 months ending with the preceding month, as adjusted to a 3.7 percent butterfat basis by using the butterfat differential applicable pursuant to § 904.63 for the respective months.

(2) Compute the simple average of the Class II prices effective in the 201–210 freight mileage zone for the same 12 months.

(3) Determine the amount, adjusted to the nearest one-half cent, by which the average price computed pursuant to subparagraph (1) of this paragraph, exceeds the average price computed pursuant to subparagraph (2) of this paragraph.

§ 904.42 *Zone price differentials.* The minimum prices determined pursuant to §§ 904.40 and 904.41 shall be subject to differentials based upon the zone location of the plant at which the milk was received from producers. For each country plant, the zone shall be determined in accordance with the railroad freight mileage distance to Boston from the railroad shipping point for such plant. Each city plant, regardless of such railroad freight mileage distance, shall be considered to be in the "City Plant" zone. The applicable zone differentials shall be those set forth in the following table, as adjusted pursuant to § 904.43.

DIFFERENTIALS FOR DETERMINATION OF ZONE PRICES

A	B	C
Zone (miles)	Class I—Price differentials (cents per hundredweight)	Class II—Price differentials (cents per hundredweight)
City plant	+52.0	+38.1
41–50	+14.5	+4.2
51–60	+13.5	+4.0
61–70	+13.0	+3.7
71–80	+11.5	+3.5
81–90	+11.0	+3.2
91–100	+10.5	+3.0
101–110	+10.5	+2.9
111–120	+9.0	+2.6
121–130	+9.0	+2.4
131–140	+8.0	+2.1
141–150	+5.5	+1.6
151–160	+4.0	+1.3
161–170	+4.0	+1.2
171–180	+1.5	+0.6
181–190	+1.5	+0.4
191–200	0	+0.1
201–210	(1)	(1)
211–220	−4.0	−0.6
221–230	−4.5	−0.7
231–240	−5.5	−0.9
241–250	−5.5	−0.9
251–260	−6.5	−1.2
261–270	−7.0	−1.3
271–280	−7.5	−1.5
281–290	−8.5	−1.6
291–300	−9.5	−1.8
301–310	−13.0	−2.3
311–320	−13.0	−2.4
321–330	−14.0	−2.5
331–340	−14.0	−2.8
341–350	−15.0	−2.8
351–360	−15.0	−3.0
361–370	−15.0	−3.1
371–380	−15.5	−3.3
381–390	−15.5	−3.4
391 and over	−15.5	−3.5

[1] No differential.

§ 904.43 *Automatic changes in zone price differentials and other price factors.* In case the rail tariff for the transportation of milk in carlots in tank cars or for the transportation of cream in 40-quart cans in carlots of 100–199 cans, as published in New England Joint Tariff—M No. 6 and supplements thereto or revisions thereof, is increased or decreased, the zone price differentials set forth in the table in § 904.42 and other price factors set forth in § 904.41 and in § 904.63, shall be correspondingly increased or decreased in the manner and to the extent provided in this section. Such adjustments shall be effective beginning with the first complete month in which the changes in rail tariffs apply. For the purpose of this section, it shall be considered that the rail tariff applicable to city plants is zero.

(a) If such rail tariff on milk is changed, the differentials set forth in Column B of the table and the city plant differential in Column C shall be adjusted to the extent of any change in the difference between the rail tariff for mileage distances of 201–210 miles and for the other applicable distances. Such adjustments shall be made to the nearest one-half cent per hundredweight in Column B, and to the nearest one-tenth cent per hundredweight in Column C.

(b) If such rail tariff on cream is changed, the country plant zone differentials set forth in Column C of the table shall be adjusted to the extent of any change in the difference between the rail tariff for mileage distances of 201–210 miles and for the other appli-

cable distances, divided by 9.05. Such adjustments shall be made to the nearest one-tenth cent per hundredweight.

(c) If such rail tariff on cream is changed, the rail tariff rate on cream for mileage distances of 201–210 miles times 1.03 and adjusted to the nearest one-half cent shall be used in place of 52.5 cents specified in § 904.41 and § 904.63.

§ 904.44 *Butter and cheese adjustment.* During the months of April, May, June, and July, the value of a pool handler's milk computed pursuant to § 904.50 shall be reduced by an amount determined as follows:

(a) Using the midpoint of any range as one price, compute the average of the daily prices for Grade A 92-score butter at wholesale in the New York market which are reported during the month by the United States Department of Agriculture, and add 20 percent.

(b) Divide by 3.7 the amount determined pursuant to § 904.41 (a), and subtract from the quotient the amount determined pursuant to paragraph (a) of this section. The result is the butter and cheese differential.

(c) Determine the pounds of butterfat in Class II milk received from producers, which was processed into salted butter, Cheddar cheese, American Cheddar cheese, Colby cheese, washed curd cheese, or part skim Cheddar cheese at a plant of the first handler of such butterfat or at a plant of a second person to which such butterfat was moved.

(d) Subtract such portion of the quantity determined in paragraph (c) of this section as was made into salted butter and disposed of by the handler or such second person in a form other than salted butter.

(e) Multiply the remaining pounds of butterfat determined pursuant to paragraph (d) of this section by the butter and cheese differential determined pursuant to paragraph (b) of this section.

§ 904.45 *Use of equivalent factors in formulas.* If for any reason a price, index, or wage rate, specified by this subpart for use in computing class prices and for other purposes is not reported or published in the manner described in this subpart, the market administrator shall use a price, index, or wage rate, determined by the Secretary to be equivalent to or comparable with the factor which is specified.

§ 904.46 *Announcement of class prices and differentials.* The market administrator shall make public announcements of class prices and differentials as follows:

(a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday, he shall announce the Class I price on the next succeeding work day.

(b) He shall announce the Class II price and the butter and cheese differential on or before the 5th day after the end of each month.

§ 904.47 *Allocation of Class I milk to plants.* For the purpose of determining the respective quantities of Class I milk subject to the applicable zone differentials, each pool handler's Class I milk during the month, after excluding receipts assigned to Class I milk pursuant to §§ 904.25 through 904.29, shall be allocated to his plants as follows:

(a) His Class I milk first shall be considered to have been the receipts at his city plants of milk from producers' farms, and of outside milk.

(b) Thereafter, his Class I milk shall be considered to have been the receipts at his country plants of that milk received from producers' farms, and that outside milk, which was shipped as fluid milk products, other than cream, from each of his country plants, in the order of the nearness of the plants to Boston. However, shipments to plants located in the States of Maine, New Hampshire, Vermont, or New York, with respect to which utilization as Class II milk is established, shall not be allocated to Class I milk.

BLENDED PRICES TO PRODUCERS

§ 904.50 *Computation of value of milk received from producers.* For each month, the market administrator shall compute the value of milk received from producers which is sold, distributed, or used by each pool handler, in the following manner:

(a) Multiply the quantity of milk in each class by the price applicable pursuant to §§ 904.40, 904.41, and 904.42.

(b) Add together the resulting value of each class.

(c) Adjust the value determined in paragraph (b) of this section as provided in § 904.44.

§ 904.51 *Computation of the basic blended price.* The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

(a) Combine into one total the respective values of milk computed pursuant to § 904.50 and the payments required pursuant to § 904.66 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to §§ 904.61 (b) and 904.66 for milk received during each month since the effective date of the most recent amendment of this subpart;

(b) Add the amount of unreserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 904.61, 904.62, 904.66, and 904.67.

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials which are applicable pursuant to § 904.64;

(d) Subtract the total amount of cooperative payments required by § 904.72;

(e) Divide by the total quantity of milk received from producers for which a value is determined pursuant to paragraph (a) of this section; and

(f) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in §§ 904.61 and 904.62. This result, which is the minimum blended price for milk containing 3.7 percent butterfat received from producers at plants located in the 201–210 freight mileage zone, shall be known as the basic blended price.

§ 904.52 *Announcement of blended prices.* On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

(a) Such of these computations as do not disclose information confidential pursuant to the act;

(b) The zone blended prices per hundredweight resulting from adjustment of the basic blended price by the differentials pursuant to § 904.64; and

(c) The names of the pool handlers, designating those whose milk is not included in the computations, because of failure to make reports or payments pursuant to this subpart.

PAYMENTS FOR MILK

§ 904.60 *Advance payments.* On or before the 10th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall such advance payment be at a rate less than the Class II price for such month. The provisions of this section shall not apply to any handler who, on or before the 17th day after the end of the month, makes final payment as required by § 904.61 (a).

§ 904.61 *Final payments.* Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 904.50 as follows:

(a) On or before the 25th day after the end of each month, to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 904.63 and 904.64, for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to, on or before the 23d day after the end of each month, or receiving from the market administrator, on or before the 25th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price adjusted by the plant and farm location differentials provided in § 904.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 904.50 as shown in a statement rendered by the market administrator on or before the 20th day after the end of such month.

§ 904.62 *Adjustments of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments pursuant to §§ 904.61 (b) and 904.66, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is payable by the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator

of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 904.61 (a) the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

§ 904.63 *Butterfat differential.* Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator as follows: Subject to § 904.43 (c), subtract 52.5 cents from the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, and divide the remainder by 330. If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price: Compute the simple average of the differences between the cream prices reported for the latest three months and the monthly averages of the daily prices, using the mid-point of any range as one price, for Grade A (92-score) butter at wholesale in the Chicago market, as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above, for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, multiplied by 33 and 1.22.

§ 904.64 *Location differentials.* The payments to be made to producers by handlers pursuant to § 904.61 (a) shall be subject to the differentials set forth in Column B of the table in § 904.42 as adjusted by § 904.43 and to further differentials as follows:

(a) With respect to milk delivered by a producer whose farm is located more than 40 miles but not more than 80 miles from the State House in Boston, there shall be added 23 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 904.40 and 904.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price.

(b) With respect to milk delivered by a producer whose farm is located not more than 40 miles from the State House in Boston, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 904.40 and 904.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price.

§ 904.65 *Other differentials.* In making the payments to producers set forth in § 904.61 (a), pool handlers may make deductions as follows:

(a) With respect to milk delivered by producers to a city plant which is located outside the marketing area and more than 14 miles from the State House in Boston, 10 cents per hundredweight;

(b) With respect to milk delivered by producers to a country plant, at which plant the average daily receipts of milk from producers are:

(1) Less than 17,000 but greater than 8,500 pounds, 4 cents per hundredweight, and

(2) 8,500 pounds or less, 8 cents per hundredweight.

§ 904.66 *Payments on outside milk.* (a) Within 23 days after the end of each month, each pool handler, buyer-handler, or producer-handler, whose receipts of outside milk are in excess of his total use of Class II milk after deducting receipts of cream, shall make payment on such excess quantity to producers, through the market administrator, at the difference between the price pursuant to § 904.40 and the price pursuant to § 904.41 effective for the location or freight mileage zone of the plant at which the handler received the outside milk.

(b) Within 23 days after the end of each month, each handler who operates an unregulated plant from which outside milk is disposed of to consumers in the marketing area without intermediate movement to another plant shall make payment to producers, through the market administrator, on the quantity so disposed of. The payment shall be at the difference between the price pursuant to § 904.40 and the price pursuant to § 904.41 effective for the location or freight mileage zone of the handler's plant.

§ 904.67 *Adjustment of overdue accounts.* Any balance due pursuant to §§ 904.61, 904.62, and 904.66, to or from the market administrator on the 10th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent effective the 11th day of such month.

§ 904.68 *Statements to producers.* In making the payments to producers prescribed by § 904.61 (a), each pool handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month, and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 904.61 (a);

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 904.65 and 904.75, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

PAYMENTS TO COOPERATIVE ASSOCIATIONS

§ 904.71 *Application and qualification for cooperative payments.* Any cooperative association of producers duly organized under the laws of any state may apply to the Secretary for a determination that it is qualified to receive cooperative payments in accordance with the provisions of §§ 904.71 through 904.75. Upon notice of the filing of such an application, the market administrator shall set aside for each month, from the funds provided by handlers' payments to the market administrator pursuant to §§ 904.61, 904.62, 904.66, and 904.67, such amount as he estimates is ample to make payment to the applicant, and hold it in reserve until the Secretary has ruled upon the application. The applicant association shall be considered to be a qualified association entitled to receive such payments from the date fixed by the Secretary, if he determines that it meets all of the following requirements:

(a) It conforms to the requirements relating to character of organization, voting, dividend payments, and dealing in products of nonmembers, which are set forth in the Capper-Volstead Act and in the state laws under which the association is organized.

(b) It operates as a responsible producer-controlled marketing association exercising full authority in the sale of the milk of its members.

(c) It systematically checks the weights and tests of milk which its members deliver to plants not operated by the association.

(d) It guarantees payment to its members for milk delivered to plants not operated by the association.

(e) It maintains, either individually or together with other qualified associations, a competent staff for dealing with marketing problems and for providing information to its members.

(f) It constantly maintains close working relationships with its members.

(g) It collaborates with similar associations in activities incident to the maintenance and strengthening of collective bargaining by producers and the operation of a plan of uniform pricing of milk to handlers.

(h) It is in compliance with all applicable provisions of this subpart.

§ 904.72 *Cooperative payments.* On or before the 25th day after the end of each month, each qualified association shall be entitled to receive a cooperative payment from the funds provided by handlers' payments to the market administrator pursuant to §§ 904.61, 904.62, 904.66, and 904.67. The payment shall be made under the conditions and at the rates specified in this section, and shall be subject to verification of the receipts and other items upon which such payment is based.

(a) Each qualified association shall be entitled to payment at the rate of 1 cent per hundredweight on the milk which its producer members deliver to the plant of a handler other than a qual-

ified association; except on milk delivered by a producer who is also a member of another qualified association, and on milk delivered to a handler who fails to make applicable payments pursuant to § 904.61 (b) and § 904.77 within ten days after the end of the month in which he is required to do so. If the handler is required by § 904.75 to make deductions from members of the association at a rate lower than 1 cent per hundredweight, the payment pursuant to this paragraph shall be at such lower rate.

(b) Each qualified association shall be entitled to payment at the rate of 2 cents per hundredweight on milk received from producers at a plant operated by that association.

§ 904.73 *Reports relating to cooperative payments.* Each qualified association shall, upon request by the market administrator, make reports to him with respect to its use of cooperative payments and its performance in meeting the requirements set forth as the basis for such payments, and shall file with him a copy of its balance sheet and operating statement at the close of each fiscal year.

§ 904.74 *Suspension of cooperative payments.* Whenever there is reason to believe that an association is no longer meeting the qualification requirements, the market administrator shall, upon request by the Secretary, suspend cooperative payments to it, and shall give the association written notice of the suspension. Such suspended payments shall be held in reserve until the Secretary has, after notice and opportunity for a hearing, ruled upon the performance of the association.

§ 904.75 *Deductions from payments to members.* (a) Each association which is entitled to receive cooperative payments on milk which its producer members deliver to a handler other than a qualified association may file a claim with the handler for amounts to be deducted from the handler's payments to such members. The claim shall contain a list of the producers, an agreement to indemnify the handler in the making of the deductions, and a certification that the association has an unterminated membership contract with each producer, authorizing the claimed deduction.

(b) In making payments to his producers for milk received during the month, each handler shall make deductions in accordance with the association's claim, and shall pay the amount deducted to the association within 25 days after the end of the month.

ADMINISTRATION EXPENSE

§ 904.77 *Payments of administration expense.* Within 23 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this order. The payment shall be at the rate of 3 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, and shall apply to all of the handler's receipts, during the month, of milk from producers, of outside milk, and of exempt milk processed at a regulated plant.

OBLIGATIONS

§ 904.78 *Termination of obligations.* The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 904.80 *Effective time.* The provisions of this subpart or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 904.81.

§ 904.81 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any of its provisions whenever he finds that this subpart or any of its provisions obstruct or do not tend to effectuate the declared policy of the act. This subpart shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 904.82 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 904.83 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this subpart the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this subpart, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 904.84 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States, or name any bureau or division of the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

Issued at Washington, D. C., this 26th day of September 1951, to be effective on and after the 1st day of October 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-11763; Filed, Sept. 28, 1951; 8:50 a. m.]

[Orange Reg. 201]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.533 *Orange Regulation 201*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges,

grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than October 1, 1951. Shipments of oranges, grown in the State of Florida, have been subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order, since September 15, 1951, and will so continue until October 1, 1951; the recommendation and supporting information for continued regulation subsequent to September 30 was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on September 25; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of oranges; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., October 1, 1951, and ending at 12:01 a. m., e. s. t., October 15, 1951, no handler shall ship:

(i) Any oranges, except Temple oranges, grown in Regulation Area I or Regulation Area II which grade U. S. No. 2 Bright, U. S. No. 2, U. S. No. 2 Russet, U. S. No 3, or lower than U. S. No. 3 grade; or

(ii) Any oranges, except Temple oranges, grown in Regulation Area I or Regulation Area II which are of a size smaller than 2$^{8}/_{16}$ inches in diameter, measured midway at a right angle to a straight line running from the stem to the blossom end of the fruit, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the revised United States Standards for Oranges (7 CFR 51.192): *Provided,* That in determining the percentage of oranges in any lot which are smaller than 2$^{8}/_{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size 2$^{1}/_{16}$ inches in diameter and smaller.

(2) As used in this section, the terms "handler," "ship," "Regulation Area I," "Regulation Area II," and "Growers Administrative Committee" shall each have the same meaning as when used in said amended marketing agreement and order; and the terms "U. S. No. 2 Bright," "U. S. No. 2," "U. S. No. 2 Russet," and "U. S. No. 3," shall each have the same meaning as when used in the revised United States Standards for Oranges (7 CFR 51.192).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 27th day of September 1951.

[SEAL] M. W. BAKER,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 51-11784; Filed, Sept. 28, 1951; 10:12 a. m.]

[Grapefruit Reg. 146]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.534 *Grapefruit Regulation 146*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR, Part 933), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than October 1, 1951. Shipments of grapefruit grown in the State of Florida, have been subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order, since September 17, 1951, and will so continue until October 1, 1951; the recommendation and supporting information for continued regulation subsequent to September 30 was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on September 25; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time thereof, are identical with the aforesaid recommendation of the committee and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., October 1, 1951, and ending at 12:01 a. m., e. s. t., October 15, 1951, no handler shall ship:

(i) Any grapefruit of any variety, grown in the State of Florida, which do not grade at least U. S. No. 2;

(ii) Any seeded grapefruit, other than pink grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 70 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box;

(iii) Any seedless grapefruit, other than pink grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 96 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box;

(iv) Any pink seeded grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 80 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box; or

(v) Any pink seedless grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 126 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box.

(2) As used in this section, "handler," "variety," and "ship," shall have the same meaning as when used in said amended marketing agreement and order; and "U. S. No. 2," "standard pack," and "standard nailed box" shall have the same meaning as when used in the revised United States Standards for Grapefruit (7 CFR 51.191).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 27th day of September 1951.

[SEAL] M. W. BAKER,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 51-11783; Filed, Sept. 28, 1951; 10:12 a. m.]

[Lemon Reg. 402]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.509 *Lemon Regulation 402*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 14 F. R. 3612), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on September 26, 1951, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., September 30, 1951, and ending at 12:01 a. m., P. s. t., October 7, 1951, is hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 250 carloads;

(iii) District 3: Unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached to Lemon Regulation No. 401 (16 F. R. 9676), and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," "prorate base," "District 1," "District 2," and "District 3," shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 27th day of September 1951.

[SEAL] M. W. BAKER,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 51-11840; Filed, Sept. 28, 1951; 10:12 a. m.]

[Orange Reg. 391]

PART 966—ORANGES GROWN IN CALIFORNIA OR IN ARIZONA

LIMITATION OF SHIPMENTS

§ 966.537 *Orange Regulation 391*—(a) *Findings.* (1) Pursuant to the provisions of Order No. 66, as amended (7 CFR Part 966; 14 F. R. 3614), regulating the handling of oranges grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Orange Administrative Committee, established under the said amended order, and upon other available information, it is hereby found that the limitation of the quantity of such oranges which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.), because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of oranges, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Orange Administrative Committee on September 27, 1951, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) Order. (1) Subject to the size requirements in Orange Regulation 372, as amended (7 CFR 966.518; 16 F. R. 4678, 5652), the quantity of oranges grown in the State of California or in the State of Arizona which may be handled during the period beginning 12:01 a. m., p. s. t., September 30, 1951, and ending at 12:01 a. m., p. s. t., October 7, 1951, is hereby fixed as follows:

(i) *Valencia oranges.* (*a*) Prorate District No. 1: Unlimited movement; (*b*) Prorate District No. 2: 1,100 carloads; (*c*) Prorate District No. 3: Unlimited movement; (*d*) Prorate District No. 4: Unlimited movement.

(ii) *Oranges other than Valencia oranges.* (*a*) Prorate District No. 1: No movement; (*b*) Prorate District No. 2: No movement; (*c*) Prorate District No. 3: No movement; (*d*) Prorate District No. 4: No movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "varieties," "carloads," and "prorate base" shall have the same meaning as when used in the said amended order; and the terms "Prorate District No. 1," "Prorate District No. 2," "Prorate District No. 3," and "Prorate District No. 4" shall each have the same meaning as given to the respective terms in § 966.107, as amended (15 F. R. 8712), of the current rules and regula-

tions (7 CFR 966.103 et seq.), as amended (15 F. R. 8712).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 28th day of September 1951.

S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

[12:01 a. m. (P. s. t.) Sept. 30, 1951, to 12:01 a. m. (P. s. t.) Oct. 7, 1951]

VALENCIA ORANGES

Prorate District No. 2

Handler	Prorate base (percent)
Total	100.0000
A. F. G. Alta Loma	.0354
A. F. G. Corona	.0403
A. F. G. Fullerton	1.1227
A. F. G. Orange	.4121
A. F. G. Riverside	.1333
A. F. G. San Juan Capistrano	.5572
A. F. G. Santa Paula	.4629
Eadington Fruit Co., Inc	5.7434
Hazeltine Packing Co	.2872
Krinard Packing Co	.1951
Placentia Cooperative Orange Association	.7159
Placentia Pioneer Valley Growers Association	.7578
Signal Fruit Association	.0449
Azusa Citrus Association	.5325
Covina Citrus Association	1.2256
Covina Orange Growers Association	.5568
Damerel-Allison Association	.7387
Glendora Citrus Association	.3194
Glendora Mutual Orange Association	.3617
Valencia Heights Orchard Association	.5591
Gold Buckle Association	.2473
La Verne Orange Association	.5641
Anaheim Valencia Orange Association	1.3062
Fullerton Mutual Orange Association	3.0218
La Habra Citrus Association	1.3005
Yorba Linda Citrus Association, The	1.1824
Escondido Orange Association	.0000
Alta Loma Heights Citrus Association	.0326
Citrus Fruit Growers	.1492
Etiwanda Citrus Fruit Association	.0117
Old Baldy Citrus Association	.0528
Rialto Heights Orange Growers	.0529
Upland Citrus Association	.3291
Upland Heights Orange Association	.0556
Consolidated Orange Growers	2.0364
Frances Citrus Association	1.4319
Garden Grove Citrus Association	2.0390
Goldenwest Citrus Association	2.0424
Irvine Valencia Growers	3.3356
Olive Heights Citrus Association	2.9632
Santa Ana-Tustin Mutual Citrus Association	1.0589
Santiago Orange Growers Association	4.6170
Tustin Hills Citrus Association	2.1501
Villa Park Orchards Association	2.4696
Bradford Bros., Inc	.9380
Placentia Mutual Orange Association	4.0265
Placentia Orange Growers Association	3.9622
Yorba Orange Growers Association	1.0642
Call Ranch	.0577
Corona Citrus Association	.4504
Jameson Co	.1247

PRORATE BASE SCHEDULE—Continued

VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
Orange Heights Orange Association	0.6034
Crafton Orange Growers Association	.2630
East Highlands Citrus Association	.0617
Redlands Heights Groves	.1936
Redlands Orangedale Association	.1682
Rialto-Fontana Citrus Association	.1015
Break & Son, Allen	.0471
Bryn Mawr Fruit Growers Association	.1077
Mission Citrus Association	.0804
Redlands Cooperative Fruit Association	.1178
Redlands Orange Growers Association	.0976
Redlands Select Groves	.2195
Rialto Orange Co	.1922
Southern Citrus Association	.1188
United Citrus Growers	.0836
Zilen Citrus Co	.0168
Arlington Heights Citrus Co	.0871
Brown Estate, L. V. W	.0612
Gavilan Citrus Association	.0611
Highgrove Fruit Association	.0528
McDermont Fruit Co	.1183
Monte Vista Citrus Association	.1181
National Orange Co	.0362
Riverside Citrus Association	.0056
Riverside Heights Orange Growers Association, The	.0309
Sierra Vista Packing Association	.0304
Victoria Ave. Citrus Association	.1042
Claremont Citrus Association	.1178
College Heights Orange and Lemon Association	.1352
Indian Hill Citrus Association	.1480
Pomona Fruit Growers Exchange	.3388
Walnut Fruit Growers Association	.5673
West Ontario Citrus Association	.1373
El Cajon Valley Citrus Association	.0000
Escondido Cooperative Citrus Association	.0000
San Dimas Orange Growers Association	.2601
Canoga Citrus Association	.5484
North Whittier Heights Citrus Association	.9359
San Fernando Heights Orange Association	.5350
Sierra Madre-Lamanda Citrus Association	.3415
Camarillo Citrus Association	1.6434
Fillmore Citrus Association	2.2180
Mupu Citrus Association	2.1086
Ojai Orange Association	.1161
Piru Citrus Association	2.0575
Rancho Sespe	.7775
Santa Paula Orange Association	1.0826
Tapo Citrus Association	.8810
Ventura County Citrus Association	.5562
Limoneira Co	.5361
East Whittier Citrus Association	.4122
Murphy Ranch Co	.8594
Anaheim Cooperative Orange Association	2.1836
Bryn Mawr Mutual Orange Association	.1452
Chula Vista Mutual Lemon Association	.0000
Euclid Ave. Orange Association	.5680
Foothill Citrus Union, Inc	.0481
Fullerton Cooperative Orange Association	.4441
Garden Grove Orange Cooperative, Inc	1.3488
Golden Orange Groves, Inc	.1859
Highland Mutual Groves	.0094
Index Mutual Association	.4715
La Verne Cooperative Citrus Association	1.5415
Olive Hillside Groves, Inc	.7276

PRORATE BASE SCHEDULE—Continued

VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
Orange Cooperative Citrus Association	1.7547
Redlands Foothill Groves	.4214
Redlands Mutual Orange Association	.1588
Ventura County Orange & Lemon Association	.8393
Whittier Mutual Orange & Lemon Association	.1596
Babijuice Corp. of California	1.1881
Banks, L. M	.7383
Becker, Samuel Eugene	.0097
Bennett Fruit Co	.0450
Borden Fruit Co	.8811
Cappos Bros. Produce	.0076
Cherokee Citrus Co., Inc	.1118
Chess Co., Meyer W	.5004
Dozier, Paul M	.0130
Dunning Ranch	.0000
Evans Bros. Packing Co	1.6513
Gold Banner Association	.1759
Granada Hills Packing Co	.0341
Granada Packing House	.7573
Hill Packing Co., Fred A	.0621
Knapp Packing Co., John C	.5857
L Bar S Ranch	.0000
Lawson, William J	.0000
Lima & Sons, Joe	.1447
Orange Belt Fruit Distributors	1.9596
Orange Hill Groves	.0106
Otte, Arnold	.0673
Panno Fruit Co., Carlo	.3910
Paramount Citrus Association	.4840
Patitucci, Frank L	.0094
Placentia Orchard Co	.6721
Prescott, John A	.0198
Redlands Fruit Association, Inc	.0041
Ronald, P. W	.0217
San Antonio Orchard Co	.2555
Stephens, T. F	.1050
Summit Citrus Packers	.0178
Treesweet Products Co	.1024
Wall, E. T., Grower-Shipper	.1194
Western Fruit Growers, Inc	.4780

[F. R. Doc. 51-11854; Filed, Sept. 28, 1951; 11:30 a. m.]

PART 947—MILK IN THE FALL RIVER, MASSACHUSETTS, MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING OF MILK IN FALL RIVER, MASSACHUSETTS, MARKETING AREA

The order amending the order, as amended, regulating the handling of milk in the Fall River, Massachusetts, marketing area shall be as follows:

(1) All of the findings, terms, and provisions of the "Order Amending The Order, As Amended, Regulating The Handling of Milk in the Fall River, Massachusetts, Marketing Area" which was annexed to and made a part of the decision of the Secretary of Agriculture issued September 17, 1951 (16 F. R. 9573; F. R. Doc. 51-11369), with respect to a proposed order amending the order, as amended, regulating the handling of milk in the Fall River, Massachusetts, marketing area shall be and are the terms and provisions of this order as if set forth in full herein.

(2) The aforesaid findings, determinations, terms, and provisions are hereby supplemented by additional findings and determinations, § 947.0 (b) and (c).

§ 947.0 *Findings and determinations.* The findings and determinations set forth in this section are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth in this section.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Fall River, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary to make the present amendment to the said order, as amended, effective not later than October 1, 1951, to reflect current marketing conditions. Any further delay in the effective date of this order amending the said order, as amended, will seriously disrupt the orderly marketing of milk in the Fall River, Massachusetts, marketing area. The changes effected by this order amending the order, as amended, do not require of persons affected substantial or extensive preparation prior to the effective date. In view of the foregoing, it is impractical, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order, as amended, and as hereby further amended) of more than 50 percent of the volume of milk covered by this order, as amended, and as hereby further amended, which is marketed within the said marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of the producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order as amended is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during April, 1951 (said month having been determined to be a representative period), were engaged in the production of milk for sale in the said marketing area (Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and sup 608c).

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Fall River, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

Delete § 947.6 (a) (3) (ii) and substitute the following:

(ii) Compute the simple average of monthly equivalent farm wage rates for each of the states named below after converting the rates reported by the United States Department of Agriculture to monthly equivalents by multiplying the rates by the factors as follows: rate per month with board and room, 1; rate per month with house, 1; rate per week with board and room, 4.33; rate per week without board or room, 4.33; and rate per day without board or room, 26. Next compute a weighted monthly wage rate by combining the average wage rates for the respective states with the weights; Maine 10, Massachusetts, 6, New Hampshire, 7; and Vermont, 77. Divide the weighted average monthly wage rate by .6394 and multiply by 0.4.

Issued at Washington, D. C., this 26th day of September 1951, to be effective on and after the 1st day of October 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-11766; Filed, Sept. 28, 1951; 8:50 a. m.]

PART 996—MILK IN THE SPRINGFIELD, MASS., MARKETING AREA

ORDER AMENDING THE ORDER, AS AMENDED

Sec.

ADMINISTRATION EXPENSE

Sec.
996.72 Expense of administration.

OBLIGATIONS

996.73 Termination of obligations.

MISCELLANEOUS PROVISIONS

996.80 Effective time.
996.81 Suspension or termination.
996.82 Continuing obligations.
996.83 Liquidation after suspension or termination.
996.84 Agents.

AUTHORITY: §§ 996.1 to 996.84 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 996.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth in this subpart.

(a) *Findings on the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed amendment to the order, as amended, regulating the handling of milk in the Springfield, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expenses, 4 cents per hundredweight or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all his receipts of milk from producers (including such handler's own production) receipts of exempt milk processed at a regulated plant, and his receipts of outside milk, except receipts of outside milk from other Federal order plants; and the amount per hundredweight by which the rate applicable to milk received from producers exceeds the rate of assessment applicable under the other Federal order, on his receipts from other Federal order plants.

(b) *Additional findings.* It is necessary to make the present amendment to the said order, as amended, effective not later than October 1, 1951, to reflect current marketing conditions. Any further delay in the effective date of this order amending the said order, as amended, will seriously disrupt the orderly marketing of milk in the Springfield, Massachusetts, marketing area. The changes effected by this order amending the order, as amended, do not require of persons affected substantial or extensive preparation prior to the effective date. In view of the foregoing, it is impractical, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong. 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order, as amended, and as hereby further amended) of more than 50 percent of the volume of milk covered by this order, as amended, and as hereby further amended, which is marketed within the said marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act, of advancing the interests of the producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the determined representative period (June 1951) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Springfield, Massachusetts, marketing area shall be in conformity to and in compliance with the following terms and conditions:

DEFINITIONS

§ 996.1 *General definitions.* (a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

(b) "Springfield, Massachusetts, marketing area", also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns: Agawam, Chicopee, Easthampton, East Longmeadow, Holyoke, Longmeadow, Ludlow, Northampton, South Hadley, Springfield, Westfield, West Springfield, Wilbraham.

(c) "Order", used with the name of a marketing area other than the Springfield, Massachusetts, marketing area, means the order issued by the Secretary regulating the handling of milk in the other marketing area.

(d) "Month" means a calendar month.

§ 996.2 *Definitions of persons.* (a) "Person" means any individual, partnership, corporation, association, or any other business unit.

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and perform the duties of the Secretary of Agriculture.

(c) "Dairy farmer" means any person who delivers bulk milk of his own production to a plant.

(d) "Dairy farmer for other markets" means any dairy farmer whose milk is received by a handler at a pool plant during the months of March through September from a farm from which the handler, an affiliate of the handler, or any person who controls or is controlled by the handler, received nonpool milk on more than 3 days in any one of the preceding months of October through February, except that the term shall not include any person who was a producer-handler during any of the preceding months of October through February.

(e) "Producer" means any dairy farmer whose milk is delivered from his farm to a pool plant, except a dairy farmer for other markets and a dairy farmer with respect to exempt milk delivered. The term shall also include a dairy farmer with respect to his operation of a farm from which milk is ordinarily delivered to a handler's pool plant, but whose milk is diverted to another plant, if the handler, in filing his monthly report pursuant to § 996.30, reports the milk as receipts from a producer at such pool plant and as moved to the other plant.

The term shall not apply to a dairy farmer who is a producer under the Boston, Lowell-Lawrence, or Worcester orders, with respect to milk diverted from the plant subject to the other order to which the dairy farmer ordinarily delivers.

(f) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act", and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(g) "Handler" means any person who in a given month, operates a pool plant, or any other plant from which fluid

milk products are disposed of, directly or indirectly, in the marketing area.

(h) "Pool handler" means any handler who operates a pool plant.

(i) "Producer-handler" means any person who is both a handler and a dairy farmer, and who receives no milk other than exempt milk from other dairy farmers except producer-handlers.

(j) "Buyer-handler" means any handler who operates a bottling or processing plant from which more than 10 percent of his total receipts of fluid milk products, other than cream, are disposed of by him as Class I milk in the marketing area, and whose entire supply of fluid milk products is received from other handlers.

(k) "Dealer" means any person who operates a plant at which he engages in the business of distributing fluid milk products, or manufacturing milk products, whether or not he disposes of any fluid milk products in the marketing area.

(l) "Consumer" means any person to whom fluid milk products are disposed of, except a dealer. The term "consumer" includes, but is not limited to, stores, restaurants, hotels, bakeries, hospitals and other institutions, candy manufacturers, soup manufacturers, livestock farmers, and similar persons who are not necessarily the ultimate users. The term also includes any dealer in his capacity as the operator of any of these establishments, and in connection with any other use or disposition of fluid milk products not directly related to his operations as a dealer.

§ 996.3 *Definitions of plants.* (a) "Plant" means the land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, handling, or processing of milk or milk products.

(b) "Receiving plant" means any plant currently used for receiving, weighing or measuring, sampling, and cooling milk received there directly from dairy farmers' farms and for washing and sterilizing the milk cans in which such milk is received, and at which are currently maintained weight sheets or other records of dairy farmers' deliveries.

(c) "Pool plant" means any receiving plant which, in a given month, meets the conditions and requirements set forth in §§ 996.20, 996.21, and 996.22 for being considered a pool plant in that month.

(d) "Regulated plant" means any pool plant; any pool handler's plant which is located in the marketing area and from which Class I milk is disposed of in the marketing area; any plant operated by a handler in his capacity as a buyer-handler or producer-handler; and any city plant operated by an association of producers.

(e) "City plant" means any plant which is located within 10 miles of the marketing area.

(f) "Country plant" means any plant which is located beyond 10 miles of the marketing area.

§ 996.4 *Definitions of milk and milk products.* (a) "Milk" means the commodity received from a dairy farmer at a plant as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of 1 percent but less than 16 percent, frozen milk, and reconstituted milk.

(b) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing or is separated from it by centrifugal force, in all forms including sweet, sour, frozen, and aerated cream, and milk and cream mixtures.

(c) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of 1 percent of butterfat.

(d) "Fluid milk products" means milk, flavored milk, cream, skim milk, flavored skim milk, cultured skim milk, buttermilk and concentrated milk, either individually or collectively.

(e) "Pool milk" means milk, including milk products derived therefrom, which a handler has received as milk from producers.

(f) "Outside milk" means:

(1) All milk received from dairy farmers for other markets.

(2) All fluid milk products, other than cream, received at a regulated plant from an unregulated plant, up to the total quantity of nonpool milk received at the unregulated plant, except exempt milk, receipts from New York order pool plants which are assigned to Class I pursuant to § 996.27, and receipts from Boston, Lowell-Lawrence, and Worcester regulated plants.

(3) All Class I milk, after subtracting receipts of Class I milk from regulated plants, which is disposed of to consumers in the marketing area from an unregulated plant, except a regulated plant under the Worcester order without its intermediate movement to another plant.

(g) "Concentrated milk" means any unsterilized liquid milk product, other than those products commonly known as evaporated milk and sweetened condensed milk, which is obtained by the evaporation of water from milk, and milk to which any other milk product may be added in the process of manufacture. For purposes of this subpart the weight of the fluid milk products used to produce the concentrated milk shall be used rather than the actual weight of the concentrated milk.

(h) "Exempt milk" means milk which is received at a regulated plant:

(1) In bulk from an unregulated plant, or from the dairy farmer who produced it, for processing and bottling, and for which an equivalent quantity of packaged milk is returned to the dairy farmer or the operator of the unregulated plant, during the same month, or

(2) In packaged form from an unregulated plant in return for an equivalent quantity of bulk milk moved from a regulated plant for processing and bottling during the same month.

MARKET ADMINISTRATOR

§ 996.10 *Designation.* The agency for the administration of this subpart shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 996.11 *Powers.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and

(d) To recommend to the Secretary amendments to it.

§ 996.12 *Duties.* The market administrator, in addition to the duties described in other sections of this subpart, shall:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(b) Pay, out of the funds provided by § 996.72, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(c) Keep such books and records as will clearly reflect the transactions provided for in this subpart and surrender the same to his successor, or to such other person as the Secretary may designate;

(d) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this subpart;

(e) Promptly verify the information contained in the reports submitted by handlers; and

(f) Give each of the producers delivering to a plant as reported by the handler prompt written notice of their actual or potential loss of producer status for the first month in which the plant's status has changed or is changing to that of a nonpool plant.

CLASSIFICATION

§ 996.15 *Classes of utilization.* All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 996.16, 996.17 and 996.18, the classes of utilization shall be as follows:

(a) Class I milk shall be all fluid milk products the utilization of which is not established as Class II milk.

(b) Class II milk shall be all fluid milk products the utilization of which is established:

(1) As being sold, distributed, or disposed of other than as or in milk; and other than as or in concentrated milk for fluid consumption, flavored milk or flavored skim milk, buttermilk, or cultured skim milk, for human consumption; and

(2) As plant shrinkage, not in excess of 2 percent of the volume handled.

§ 996.16 *Interplant movements of fluid milk products other than cream.* Fluid milk products, except cream, moved to another plant from a pool plant or from the city plant of an association of producers shall be classified as follows:

(a) If moved to another pool plant, they shall be classified in the class to which they are assigned at the plant of receipt pursuant to §§ 996.25 and 996.26.

(b) If moved to a buyer-handler's plant, they shall be classified as Class I milk, unless Class II utilization is established.

(c) If moved to a producer-handler's plant, or to any unregulated plant, except a plant subject to the New York, Boston, Lowell-Lawrence, or Worcester orders, they shall be classified as Class I milk up to the total quantity of the same form of fluid milk products utilized as Class I milk at the plant to which they were moved.

(d) If moved to a plant subject to the New York, Boston, Lowell-Lawrence, or Worcester orders, they shall be classified in the same class to which the receipt is assigned under such order, except that if moved to a plant subject to the New York order they shall be classified as Class I milk if classified in Classes I–A, I–B, or I–C under the New York order, and shall be classified as Class II milk if classified in any class other than I–A, I–B, or I–C under the New York order.

(e) If moved to a regulated plant of a nonpool handler, except the city plant of an association of producers, or to any unregulated plant except a plant subject to the New York, Boston, Lowell-Lawrence or Worcester orders, they shall be classified as Class I milk if retransferred to either of these types of regulated or unregulated plants.

§ 996.17 *Interplant movements of cream, and of milk products other than fluid milk products.* Cream and milk products other than fluid milk products moved from the regulated plant of a pool handler to another plant shall be classified as Class II milk.

§ 996.18 *Responsibility of handlers in establishing the classification of milk.* (a) In establishing the classification of any milk received by a handler from producers, the burden rests upon the handler who receives the milk from producers to account for the milk and to prove that such milk should not be classified as Class I milk.

(b) In establishing the classification of any pool milk received in the form of cream or milk products other than fluid milk products, or any nonpool milk or milk products received by a handler, the burden rests upon the receiving handler to account for such milk and milk products and to prove that such milk and milk products should not be classified as Class I milk.

DETERMINATION OF POOL PLANT STATUS

§ 996.20 *Basic requirements for pool plant status.* Each receiving plant shall be a pool plant during each month in which it meets the applicable requirements contained in §§ 996.21 and 996.22, together with the following basic requirements:

(a) A majority of the dairy farmers delivering milk to the plant hold certificates of registration issued pursuant to chapter 94, sections 16C and 16G of the Massachusetts General Laws.

(b) The handler operating the plant holds a license which has been issued by the milk inspector of a city or town in the marketing area, pursuant to chapter 94, section 40, of the Massachusetts General Laws, or a majority of the dairy farmers delivering milk to the plant are approved by such an inspector as sources of supply for milk for sale in his municipality.

(c) The plant is operated neither as the plant of a producer-handler, nor as a pool plant, pursuant to the provisions of the Boston, Lowell-Lawrence, New York, or Worcester orders.

(d) Each of a handler's plants which is a nonpool receiving plant during any of the months of October through February shall not be a pool plant in any of the following months of March through September in which it is operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, unless its operation during October through February was in the handler's capacity as a producer-handler.

§ 996.21 *Additional requirements for city pool plants.* Each city receiving plant shall be a pool plant in each month in which at least 10 percent of its total receipts of fluid milk products other than cream is disposed of in the marketing area as Class I milk, or in which it is operated by an association of producers. In determining whether a city plant has disposed of the required 10 percent of its receipts as Class I milk in the marketing area, the total quantity of fluid milk products, other than cream, moved from that plant to another city plant which is a regulated plant shall be considered as a disposition of Class I milk in the marketing area up to the quantity of Class I milk disposed of in the marketing area from the other plant.

§ 996.22 *Additional requirements for country pool plants.* (a) Each country receiving plant shall be a pool plant in any month in which more than 30 percent of its total receipts of fluid milk products, other than cream, is disposed of as Class I milk directly to consumers in the marketing area or is shipped as milk to city plants at which more than 50 percent of the total receipts of fluid milk products, other than cream, is disposed of as Class I milk.

(b) Any country plant which is a pool plant continuously in each of the months from October through February shall be a pool plant continuously for the following months of March through September, regardless of the quantity then disposed of in the marketing area, if the handler's written request for pool plant status for such seven months' period is received by the market administrator before March 1 of that year. Changes in the identity of the handler operating the plant shall not affect the application of this paragraph.

ASSIGNMENT OF RECEIPTS TO CLASSES

§ 996.25 *Assignment of pool handlers' receipts to Class I milk.* For the purpose of computing the net quantity of each pool handler's Class I milk for which a value is to be computed pursuant to § 996.50, his receipts of milk and milk products shall be assigned to Class I milk in the following sequence:

(a) Receipts of exempt milk.

(b) Receipts from regulated plants under other Federal orders, which are assigned to Class I milk pursuant to § 996.27.

(c) Receipts of fluid milk products, other than cream and skim milk, from the regulated city plants of other handlers.

(d) Receipts of milk from producers at a handler's country plant equal to the volume of fluid milk products disposed of directly from the country plant as Class I milk outside the marketing area without being received at a city plant.

(e) Receipts of milk directly from producers at the handler's city plant.

(f) Receipts of outside milk at the handler's city plant.

(g) Receipts of fluid milk products, other than cream and skim milk, from the country pool plants of other handlers, in the order of the nearness of the plants to Springfield.

(h) Receipts of milk from producers at the handler's country plants not previously assigned pursuant to paragraph (d) of this section in the order of the nearness of the plants to Springfield.

(i) Receipts of outside milk at the handler's country plants, in the order of the nearness of the plants to Springfield.

(j) Receipts of skim milk from regulated city plants and then from regulated country plants.

(k) All other receipts or available quantities of fluid milk products, from whatever source derived.

§ 996.26 *Assignment of pool handlers' receipts to Class II milk.* Each pool handler's receipts of milk and milk products which are not assigned to Class I milk pursuant to § 996.25 shall be assigned to Class II milk.

§ 996.27 *Receipts from other Federal order plants.* Receipts of fluid milk products from plants regulated by other Federal orders shall be assigned as follows:

(a) Receipts of fluid milk products from regulated plants under the Boston order shall be assigned to the Class in which they are classified under that order.

(b) Receipts of fluid milk products, other than cream, from regulated plants under the Lowell-Lawrence or Worcester orders shall be assigned to Class I milk, unless the operators of the shipping plant and of the receiving plant file a joint written request to the market administrator for assignment to Class II milk of the fluid milk products so received. In such event, the fluid milk products shall be assigned to Class II milk up to the total Class II uses of fluid milk products other than cream at the receiving plant.

(c) Receipts from New York order pool plants shall be assigned to Class I milk if classified in Classes I–A or I–B under the New York order.

REPORTS OF HANDLERS

§ 996.30 *Monthly reports of pool handlers.* On or before the 8th day after the end of each month each pool handler shall, with respect to the milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production;

(b) The receipts of fluid milk products at each plant from any other handler assigned to classes pursuant to §§ 996.25 through 996.27.

(c) The receipts of outside milk and exempt milk at each plant; and

(d) The quantities from whatever source derived which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 996.15 through § 996.18.

§ 996.31 *Reports of nonpool handlers.* Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products. The reports shall be made at the time and in the manner prescribed by the market administrator, except that any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

§ 996.32 *Reports regarding individual producers.* (a) Within 20 days after a producer moves from one farm to another, or starts or resumes deliveries to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

§ 996.33 *Reports of payments to producers.* Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for such month which shall show for each producer:

(a) The daily and total pounds of milk delivered with the average butterfat test thereof; and

(b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

§ 996.34 *Maintenance of records.* Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

§ 996.35 *Verification of reports.* For the purpose of ascertaining the correctness of any report made to the market administrator as required by this subpart or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(a) Verify the information contained in reports submitted in accordance with this subpart;

(b) Weigh, sample, and test milk and milk products; and

(c) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

§ 996.36 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

MINIMUM CLASS PRICES

§ 996.40 *Class I price at city plants.* The Class I price per hundredweight at city plants shall be determined for each month pursuant to this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday, the latest reported figures available on the next succeeding workday shall be used.

(a) Divide by .98 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the year 1926 as the base period.

(b) Divide by 3 the sum of the three latest monthly indexes of department store sales in the Boston Federal Reserve District adjusted for seasonal variations, as reported by the Federal Reserve System, with the years 1935–39 as the base period and divide the result so obtained by 1.26.

(c) Compute an index of grain-labor costs in the Boston milkshed in the following manner:

(1) Compute the simple average of the four latest weekly average retail prices per ton of dairy ration in the Boston milkshed, as reported by the United States Department of Agriculture, divide by 0.5044, and multiply by 0.6.

(2) For each of the States of Maine, Massachusetts, New Hampshire, and Vermont, compute the simple average, on a monthly equivalent basis, of the following farm wage rates reported by the United States Department of Agriculture: The rate per month with board and room; the rate per month with house; the rate per week with board and room; the rate per week without board or room; and the rate per day without board or room. To convert the weekly rates and the daily rates to monthly equivalents, multiply the weekly rates by 4.33 and the daily rate by 26. From the simple averages, compute a combined weighted average monthly rate, using the following weights: Maine, 10; Massachusetts, 6; New Hampshire, 7; and Vermont, 77. Divide the weighted average monthly rate by 0.6394, and multiply the result by 0.4.

(3) Add the results determined pursuant to subparagraphs (1) and (2) of this paragraph.

(d) Divide by 3 the sum of the final results computed pursuant to the preceding paragraphs of this section. Express the result as a whole number by dropping fractions of less than one-half or by raising fractions of one-half or more to the next whole number. The result shall be known as the formula index.

(e) Subject to the succeeding paragraphs of this section the Class I price per hundredweight at city plants shall be as shown in the following table:

CLASS I PRICE SCHEDULE

Formula index	Class I price per hundredweight		
	Jan.-Feb.-Mar.-July-Aug.-Sept.	Apr.-May-June	Oct.-Nov.-Dec.
50–56	$2.21	$1.77	$2.65
57–63	2.43	1.99	2.87
64–70	2.65	2.21	3.09
71–77	2.87	2.43	3.31
78–84	3.09	2.65	3.53
85–90	3.31	2.87	3.75
91–97	3.53	3.09	3.97
98–104	3.75	3.31	4.19
105–111	3.97	3.53	4.41
112–118	4.19	3.75	4.63
119–125	4.41	3.97	4.85
126–132	4.63	4.19	5.07
133–139	4.85	4.41	5.29
140–146	5.07	4.63	5.51
147–152	5.29	4.85	5.73
153–159	5.51	5.07	5.95
160–166	5.73	5.29	6.17
167–173	5.95	5.51	6.39
174–180	6.17	5.73	6.61
181–187	6.39	5.95	6.83
188–194	6.61	6.17	7.05

If the formula index is more than 194 the price shall be increased at the same rate as would result from further extension of this table at the rate of extension in the six highest index brackets.

(f) The Class I price shall be 44 cents more than the price prescribed in paragraph (e) of this section if, under the provisions of the Boston order, less than 33 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, ex-

cept that if the operation of this paragraph would cause the Class I price to be more than 88 cents above the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent increase as will result in a Class I price equal to the Class I price for the same month of the preceding year plus 88 cents.

(g) The Class I price shall be 44 cents less than the price prescribed in paragraph (e) of this section if, under the provisions of the Boston order, more than 41 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this paragraph would cause the Class I price to be more than 88 cents below the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent reduction as will result in a Class I price equal to the Class I price for the same month of the preceding year minus 88 cents.

(h) Notwithstanding the provisions of the preceding paragraphs of this section, the Class I price for any of the months of March through June of each year shall not be higher than the Class I price for the immediately preceding month, and the Class I price for any of the months of September through December of each year shall not be lower than the Class I price for the immediately preceding month.

(i) The Class I price determined under the preceding paragraphs of this section shall be increased or decreased to the extent of any increase or decrease in the rail tariff for the transportation of milk in carlots in tank cars for mileage distances of 201–210 miles, inclusive, as published in the New England Joint Tariff M No. 6 and supplements thereto or revisions thereof. The adjustment shall be made to the nearest one-half cent per hundredweight, and shall be effective in the first complete month in which such increase or decrease in the rail tariff applies.

§ 996.41 *Class II price at city plants.* The Class II price per hundredweight at city plants shall be determined for each month pursuant to this section.

(a) Divide by 33 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the month, multiply by .98, and multiply the result by 3.7. If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price: Compute the simple average of the differences between the cream prices reported for the latest three months and the monthly averages of the daily prices, using the mid-point of any range as one price, for Grade A (92-score) butter at wholesale in the Chicago market, as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above multiplied by 33 and 1.22 for the current pricing month.

(b) Multiply by 7.85 the simple average of the prices per pound of roller process and spray process nonfat dry milk solids for human consumption; in carlots, f. o. b. Chicago area manufacturing plants, as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the month during which such milk is delivered.

(c) Add the results obtained in paragraphs (a) and (b) of this section, and from the sum subtract the amount shown below for the applicable month.

Month:	*Amount (cents)*
January and February	67
March and April	79
May and June	85
July	79
August and September	73
October, November, and December	67

(d) For each month following the first month for which the amount determined pursuant to this paragraph is greater than 5 cents, the amount to be subtracted pursuant to paragraph (c) of this section shall be reduced by any plus amount determined as follows:

(1) Compute the simple average of the prices reported by the United States Department of Agriculture for milk for manufacturing purposes, f. o. b. plants United States, for each of the 12 months ending with the preceding month, as adjusted to a 3.7 percent butterfat basis by using the butterfat differential applicable pursuant to § 904.63 of the Boston order for the respective months.

(2) Compute the simple average of the Class II prices effective under the provisions of the Boston order in the 201–210 freight mileage zone for the same 12 months.

(3) Determine the amount, adjusted to the nearest one-half cent, by which the average price computed pursuant to subparagraph (1) of this paragraph exceeds the average price computed pursuant to subparagraph (2) of this paragraph.

§ 996.42 *Country plant price differentials.* In the case of receipts at country plants, the prices determined pursuant to §§ 996.40 and 996.41 shall be subject to differentials based upon the zone location of the plant at which the Class I milk or Class II milk was received. The zone location of each plant shall be based on the distance ascertained by the market administrator as the shortest distance from the plant to the City Hall in Springfield, Massachusetts, over highways on which the highway departments of the governing States permit milk tank trucks to move or on the railway mileage distance to Springfield from the nearest railway shipping point for such plant, whichever is shorter. The applicable zone differentials shall be those set forth in the following table, as adjusted pursuant to § 996.43.

DIFFERENTIALS FOR DETERMINATION OF ZONE PRICES

A Zone (miles)	B Class I price differentials (cents per cwt.)	C Class II price differentials (cents per cwt.)
Less than 40½	(1)	(1)
41–50	−41.5	−2.0
51–60	−42.5	−3.0
61–70	−43.0	−3.0
71–80	−44.5	−3.0
81–90	−45.0	−3.0
91–100	−45.5	−3.0
101–110	−45.5	−4.5
111–120	−47.0	−4.5
121–130	−47.0	−4.5
131–140	−48.0	−4.5
141–150	−50.5	−4.5
151–160	−52.0	−6.0
161–170	−52.0	−6.0
171–180	−54.5	−6.0
181–190	−54.5	−6.0
191–200	−56.0	−6.0
201–210	−56.0	−7.0
211–220	−60.0	−7.0
221–230	−60.5	−7.0
231–240	−61.5	−7.0
241–250	−61.5	−7.0
251–260	−62.5	−8.0
261–270	−63.0	−8.0
271–280	−63.5	−8.0
281–290	−64.5	−8.0
291 and over	−65.5	−8.0

[1] No differential.

§ 996.43 *Automatic changes in zone price differentials.* In case the rail tariff for the transportation of milk in 40-quart cans in carlots of 200 or more cans or for the transportation of cream in 40-quart cans in carlots of 100–199 cans, as published in New England Joint Tariff M No. 6 and supplements thereto or revisions thereof, is increased or decreased, the zone price differentials set forth in § 996.42 shall be correspondingly increased or decreased in the manner and to the extent provided in this section. Such adjustments shall be effective beginning with the first complete month in which the changes in rail tariffs apply. If such rail tariff on milk is changed, the differentials set forth in Column B of the table shall be adjusted to the extent of any such change. If such rail tariff on cream is changed, the differentials set forth in Column C of the table shall be adjusted to the extent of any such change divided by 9.05. Adjustments shall be made to the nearest one-half cent per hundredweight.

§ 996.44 *Use of equivalent factors in formulas.* If for any reason a price, index, or wage rate specified by this order for use in computing class prices and for other purposes is not reported or published in the manner described by this order, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

§ 996.45 *Announcement of class prices.* The market administrator shall make public announcements of the class prices as follows:

(a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday he shall announce the Class I price on the next succeeding work day.

(b) He shall announce the Class II price on or before the 5th day after the end of each month.

BLENDED PRICES TO PRODUCERS

§ 996.50 *Computation of net value of milk used by each pool handler.* For each month, the market administrator shall compute the net value of milk which is sold, distributed, or used by each pool handler, in the following manner:

(a) From the handler's total Class I milk, subtract all receipts which have been assigned to Class I milk pursuant to § 996.25 (a), (b), (c), (g), and (j);

(b) From the handler's total Class II milk, subtract all receipts which have been assigned to Class II milk pursuant to § 996.26, except receipts of milk from producers;

(c) Multiply the remaining quantities of Class I milk and Class II milk by the prices applicable pursuant to §§ 996.40, 996.41 and 996.42.

(d) Add together the resulting value of each class;

(e) Add the total amount of the payment required from the pool handler pursuant to § 996.66; and

(f) Subtract the value obtained by multiplying the quantities assigned to Class I milk pursuant to § 996.25 (f), (i), and (k) by the price applicable pursuant to §§ 996.41 and 996.42.

§ 996.51 *Computation of the basic blended price.* The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

(a) Combine into one total the respective net values of milk, computed pursuant to § 996.50 and payments required pursuant to §§ 996.65 and 996.66, for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to §§ 996.61 (b), 996.65 and 996.66, for milk received during each month since the effective date of the most recent amendment to this subpart;

(b) Add the amount of unreserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 996.61, 996.62, 996.65, 996.66 and 996.67;

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable pursuant to § 996.64;

(d) Divide by the total quantity of producer milk for which a value is determined pursuant to paragraph (a) of this section; and

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in §§ 996.61 and 996.62. This result, which is the minimum blended price for milk containing 3.7 percent butterfat received from producers at city plants shall be known as the basic blended price.

§ 996.52 *Announcement of blended prices.* On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

(a) Such of these computations as do not disclose information confidential pursuant to the act;

(b) The zone blended prices per hundredweight resulting from adjustment of the basic blended price by the country plant price differentials pursuant to § 996.64; and

(c) The names of the pool handlers, designating those whose milk is not included in the computations because of failure to make reports or payments pursuant to this subpart.

PAYMENTS FOR MILK

§ 996.60 *Advance payments.* On or before the 10th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall such advance payment be at a rate less than the Class II price for such month. The provisions of this section shall not apply to any handler who, on or before the 17th day after the end of the month, makes final payment as required by § 996.61 (a).

§ 996.61 *Final payments.* Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 996.50 as follows:

(a) On or before the 25th day after the end of each month to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 996.63 and 996.64, for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to, on or before the 23d day after the end of each month, or receiving from the market administrator, on or before the 25th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price adjusted by the plant and farm location differentials provided in § 996.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 996.50, as shown in a statement rendered by the market administrator on or before the 20th day after the end of such month.

§ 996.62 *Adjustments of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments pursuant to §§ 996.61 (b), 996.65 or 996.66 the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is payable by the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 996.61 (a), the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

§ 996.63 *Butterfat differential.* Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator as follows:

Divide by 33 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, subtract 1.5 cents, and divide the result by 10.

If the cream price described above is not reported as indicated an equivalent determined as follows shall be used in lieu of such cream price: Compute the simple average of the differences between the cream prices reported for the latest three months and the monthly averages of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the Chicago market, as reported for the same months by the United States Department of Agriculture, times 1.22 and times 33. Then add to this amount the average of the butter prices described above, for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, multiplied by 33 and 1.22.

§ 996.64 *Location differentials.* The payments to be made to producers by handlers pursuant to § 996.61 (a) shall be subject to the Class I price differentials applicable pursuant to § 996.42, and to further differentials as follows:

(a) With respect to milk delivered by a producer whose farm is located in any of the following cities or towns, there shall be added 23 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 996.40 and 996.42 which is effective at the plant to which such milk is delivered in which event there shall be added an amount which will give as a result such price: Massachusetts: Becket, Florida, Hinsdale, Otis, Peru, Sandisfield, Savoy, Washington, and Windsor. New Hampshire: Chesterfield, and Westmoreland. Vermont: Brattleboro, Dover, Dummarston, Marlboro, Newfane, Putney, and Wilmington.

(b) With respect to milk delivered by a producer whose farm is located in Franklin, Hampshire, Hampden, or Worcester Counties in Massachusetts or in any of the following cities or towns, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 996.40 and 996.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price: Connecticut: Ellington, Enfield, Granby, Somers, and Suf-

field. New Hampshire: Hinsdale and Winchester. Vermont: Guilford, Halifax, Readsboro, Vernon, and Whitingham.

§ 996.65 *Payments on outside milk.* Within 23 days after the end of each month handlers shall make payments to producers, through the market administrator, as follows:

(a) Each buyer-handler or producer-handler whose receipts of outside milk are in excess of his total use of Class II milk after deducting receipts of cream, shall make payment on such excess quantity at the difference between the Class I and Class II prices pursuant to §§ 996.40, 996.41, and 996.42 effective for the location or freight mileage zone of the plant at which the handler received the outside milk.

(b) Each handler who operates an unregulated plant from which outside milk is disposed of to consumers in the marketing area without intermediate movement to another plant shall make payment on the quantity so disposed of. The payment shall be at the difference between the Class I and Class II prices pursuant to §§ 996.40, 996.41, and 996.42, effective for the location or freight mileage zone of the handler's plant.

§ 996.66 *Payments on Class I receipts from other Federal order plants.* Within 23 days after the end of each month, each pool handler, buyer-handler, or producer-handler who received Class I milk from a New York, Boston, Lowell-Lawrence, or Worcester order regulated plant during the month shall make such payment to producers, through the market administrator, as results from the following computation:

(a) Adjust the price pursuant to §§ 996.40 and 996.42 effective for the location or freight mileage zone of the plant from which the Class I milk was received by the butterfat differential calculated pursuant to § 996.63.

(b) Adjust the zone Class I price applicable under the other Federal order (Class I–A or I–B in the case of a New York order plant) by the butterfat differential applicable under that order.

(c) If the adjusted Class I price calculated under paragraph (a) of this section exceeds the corresponding price calculated under paragraph (b) of this section, multiply the quantity of Class I receipts from the other Federal order plant by the difference in price.

§ 996.67 *Adjustment of overdue accounts.* Any balance due pursuant to §§ 996.61, 996.62, 996.65, and 996.66 to or from the market administrator on the 10th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent, effective the 11th day of such month.

§ 996.68 *Statements to producers.* In making the payments to producers prescribed by § 996.61 (a), each pool handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of § 996.61 (a).

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 996.70 and 996.71, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

MARKETING SERVICES

§ 996.70 *Marketing service deduction; nonmembers of an association of producers.* In making payments to producers pursuant to § 996.61 (a) each handler shall, with respect to all milk delivered by each producer other than himself during each month, except as set forth in § 996.71, deduct 3 cents per hundredweight, or such lesser amount as the market administrator shall determine to be sufficient, and shall on or before the 25th day after the end of each month, pay such deductions to the market administrator. Such moneys shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

§ 996.71 *Marketing service deduction; members of an association of producers.* In the case of producers who are members of an association of producers which is actually performing the services set forth in § 996.70, each handler shall, in lieu of the deductions specified in § 996.70, make such deductions from payments made pursuant to § 996.61 (a) as may be authorized by such producers and pay, on or before the 25th day after the end of each month, such deduction to such associations.

ADMINISTRATION EXPENSE

§ 996.72 *Expense of administration.* Within 23 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this order, based on the handler's receipts of fluid milk products, other than cream, during the month. The payment shall be at the rate of 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, on the handler's receipts of milk from producers, including receipts from his own production, receipts of exempt milk, processed at a regulated plant, and his receipts of outside milk, except receipts of outside milk from other Federal order plants; and at the rate by which the rate applicable to milk received from producers exceeds the rate of assessment applicable under the other Federal order, on his receipts from other Federal order plants.

OBLIGATIONS

§ 996.73 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books or records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the

applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 996.80 *Effective time.* The provisions of this subpart, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 996.81.

§ 996.81 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This subpart shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 996.82 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 996.83 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this subpart, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this subpart, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 996.84 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

Issued at Washington, D. C., this 26th day of September 1951, to be effective on and after the 1st day of October 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-11765; Filed, Sept. 28, 1951; 8:50 a. m.]

PART 999—MILK IN THE WORCESTER, MASS., MARKETING AREA

ORDER AMENDING THE ORDER, AS AMENDED

AUTHORITY: §§ 999.1 to 999.84 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 999.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth in this subpart.

(a) *Findings on the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed amendment to the order, as amended, regulating the handling of milk in the Worcester, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held, and

(4) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expenses, 4 cents per hundredweight or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all his receipts of milk from producers (including such handler's own production), receipts of exempt milk processed at a regulated plant, and his receipts of outside milk, except receipts of outside milk from other Federal order plants; and the amount per hundredweight by which the rate applicable to milk received from

producers exceeds the rate of assessment applicable under the other Federal order, on his receipts from other Federal order plants.

(b) *Additional findings.* It is necessary to make the present amendment to the said order, as amended, effective not later than October 1, 1951, to reflect current marketing conditions. Any further delay in the effective date of this order amending the said order, as amended, will seriously disrupt the orderly marketing of milk in the Worcester, Massachusetts, marketing area. The changes effected by this order amending the order, as amended, do not require of persons affected substantial or extensive preparation prior to the effective date. In view of the foregoing, it is impractical, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong. 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order, as amended, and as hereby further amended), of more than 50 percent of the volume of milk covered by this order, as amended, and as hereby further amended, which is marketed within the said marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act.

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act, of advancing the interests of the producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the determined representative period (June 1951) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Worcester, Massachusetts, marketing area shall be in conformity to and in compliance with the following terms and conditions:

DEFINITIONS

§ 999.1 *General definitions.* (a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(b) "Worcester, Massachusetts, marketing area", also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns; Auburn, Boylston, Clinton, Grafton, Holden, Leicester, Millbury, Paxton, Rutland, Shrewsbury, Spencer, West Boylston, Worcester.

(c) "Order", used with the name of a marketing area other than the Worcester, Massachusetts, marketing area, means the order issued by the Secretary regulating the handling of milk in the other marketing area.

(d) "Month" means a calendar month.

§ 999.2 *Definitions of persons.* (a) "Person" means any individual, partnership, corporation, association, or any other business unit.

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and perform the duties of the Secretary of Agriculture.

(c) "Dairy farmer" means any person who delivers bulk milk of his own production to a plant.

(d) "Dairy farmer for other markets" means any dairy farmer whose milk is received by a handler at a pool plant during the months of March through September from a farm from which the handler, an affiliate of the handler, or any person who controls or is controlled by the handler, received nonpool milk on more than 3 days in any one of the preceding months of October through February, except that the term shall not include any person who was a producer-handler during any of the preceding months of October through February.

(e) "Producer" means any dairy farmer whose milk is delivered from his farm to a pool plant, except a dairy farmer for other markets and a dairy farmer with respect to exempt milk delivered. The term shall also include a dairy farmer with respect to his operation of a farm from which milk is ordinarily delivered to a handler's pool plant, but whose milk is diverted to another plant, if the handler, in filing his monthly report pursuant to § 999.30, reports the milk as receipts from a producer at such pool plant and as moved to the other plant.

The term shall not apply to a dairy farmer who is a producer under the Boston, Lowell-Lawrence, or Springfield orders, with respect to milk diverted from the plant subject to the other order to which the dairy farmer ordinarily delivers.

(f) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act", and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(g) "Handler" means any person who, in a given month, operates a pool plant, or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area.

(h) "Pool handler" means any handler who operates a pool plant.

(i) "Producer-handler" means any person who is both a handler and a dairy farmer, and who receives no milk other than exempt milk from other dairy farmers except producer-handlers.

(j) "Buyer-handler" means any handler who operates a bottling or processing plant from which more than 10 percent of his total receipts of fluid milk products, other than cream, are disposed of by him as Class I milk in the marketing area, and whose entire supply of fluid milk products is received from other handlers.

(k) "Dealer" means any person who operates a plant at which he engages in the business of distributing fluid milk products, or manufacturing milk products, whether or not he disposes of any fluid milk products in the marketing area.

(l) "Consumer" means any person to whom fluid milk products are disposed of, except a dealer. The term "consumer" includes, but is not limited to, stores, restaurants, hotels, bakeries, hospitals and other institutions, candy manufacturers, soup manufacturers, livestock farmers, and similar persons who are not necessarily the ultimate users. The term also includes any dealer in his capacity as the operator of any of these establishments, and in connection with any other use or disposition of fluid milk products not directly related to his operations as a dealer.

§ 999.3 *Definitions of plants* (a) "Plant" means the land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, handling, or processing of milk or milk products.

(b) "Receiving plant" means any plant currently used for receiving, weighing or measuring, sampling, and cooling milk received there directly from dairy farmers' farms and for washing and sterilizing the milk cans in which such milk is received, and at which are currently maintained weight sheets or other records of dairy farmers' deliveries.

(c) "Pool plant" means any receiving plant which, in a given month, meets the conditions and requirements set forth in §§ 999.20, 999.21, and 999.22 for being considered a pool plant in that month.

(d) "Regulated plant" means any pool plant; any pool handler's plant which is located in the marketing area and from which Class I milk is disposed of in the marketing area; any plant operated by a handler in his capacity as a buyer-handler or producer-handler; and any city plant operated by an association of producers.

(e) "City plant" means any plant which is located within 10 miles of the marketing area.

(f) "Country plant" means any plant which is located beyond 10 miles of the marketing area.

§ 999.4 *Definitions of milk and milk products.* (a) "Milk" means the commodity received from a dairy farmer at a plant as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of 1 percent but less than 16 percent, frozen milk, and reconstituted milk.

(b) "Cream" means that portion of milk, containing not less than 16 percent

of butterfat, which rises to the surface of milk on standing or is separated from it by centrifugal force, in all forms including sweet, sour, frozen, and aerated cream, and milk and cream mixtures.

(c) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of 1 percent of butterfat.

(d) "Fluid milk products" means milk, flavored milk, cream, skim milk, flavored skim milk, cultured skim milk, buttermilk, and concentrated milk, either individually or collectively.

(e) "Pool milk" means milk, including milk products derived therefrom, which a handler has received as milk from producers.

(f) "Outside milk" means:

(1) All milk received from dairy farmers for other markets.

(2) All fluid milk products, other than cream, received at a regulated plant from an unregulated plant up to the total quantity of nonpool milk received at the unregulated plant, except exempt milk, receipts from New York order pool plants which are assigned to Class I pursuant to § 999.27, and receipts from Boston, Lowell-Lawrence, and Springfield regulated plants.

(3) All Class I milk, after subtracting receipts of Class I milk from regulated plants, which is disposed of to consumers in the marketing area from an unregulated plant, except a Boston or Springfield regulated plant, without its intermediate movement to another plant.

(g) "Concentrated milk" means any unsterilized liquid milk product, other than those products commonly known as evaporated milk and sweetened condensed milk, which is obtained by the evaporation of water from milk, and milk to which any other milk product may be added in the process of manufacture. For purposes of this subpart the weight of the fluid milk products used to produce the concentrated milk shall be used rather than the actual weight of the concentrated milk.

(h) "Exempt milk" means milk which is received at a regulated plant:

(1) In bulk from an unregulated plant, or from the dairy farmer who produced it, for processing and bottling, and for which an equivalent quantity of packaged milk is returned to the dairy farmer or to the operator of the unregulated plant during the same month, or

(2) In package form from an unregulated plant in return for an equivalent quantity of bulk milk moved from a regulated plant for processing and bottling during the same month.

MARKET ADMINISTRATOR

§ 999.10 *Designation.* The agency for the administration of this subpart shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 999.11 *Powers.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and

(d) To recommend to the Secretary amendments to it.

§ 999.12 *Duties.* The market administrator, in addition to the duties described in other sections of this subpart, shall:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(b) Pay, out of the funds provided by § 999.72, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(c) Keep such books and records as will clearly reflect the transactions provided for in this order and surrender the same to his successor, or to such other person as the Secretary may designate;

(d) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this order;

(e) Promptly verify the information contained in the reports submitted by handlers; and

(f) Give each of the producers delivering to a plant as reported by the handler prompt written notice of their actual or potential loss of producer status for the first month in which the plant's status has changed or is changing to that of a nonpool plant.

CLASSIFICATION

§ 999.15 *Classes of utilization.* All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 999.16, 999.17, and 999.18, the classes of utilization shall be as follows:

(a) Class I milk shall be all fluid milk products the utilization of which is not established as Class II milk.

(b) Class II milk shall be all fluid milk products the utilization of which is established:

(1) As being sold, distributed, or disposed of other than as or in milk; and other than as or in concentrated milk for fluid consumption, flavored milk or flavored skim milk, buttermilk, or cultured skim milk, for human consumption; and

(2) As plant shrinkage, not in excess of 2 percent of the volume handled.

§ 999.16 *Interplant movements of fluid milk products other than cream.* Fluid milk products, except cream, moved to another plant from a pool plant or from the city plant of an association of producers shall be classified as follows:

(a) If moved to another pool plant, they shall be classified in the class to which they are assigned at the plant of receipt pursuant to §§ 999.25 and 999.26.

(b) If moved to a buyer-handler's plant, they shall be classified as Class I milk, unless Class II utilization is established.

(c) If moved to a producer-handler's plant, or to any unregulated plant, except a plant subject to the New York, Boston, Lowell-Lawrence, or Springfield orders, they shall be classified as Class I milk up to the total quantity of the same form of fluid milk products utilized as Class I milk at the plant to which they were moved.

(d) If moved to a plant subject to the New York, Boston, Lowell-Lawrence, or Springfield orders, they shall be classified in the same class to which the receipt is assigned under such order, except that if moved to a plant subject to the New York order they shall be classsified as Class I milk if classified in Classes I–A, I–B, or I–C under the New York order, and shall be classified as Class II milk if classified in any class other than I–A, I–B, or I–C under the New York order.

(e) If moved to a regulated plant of a nonpool handler, except the city plant of an association of producers, or to any unregulated plant except a plant subject to the New York, Boston, Lowell-Lawrence, or Springfield orders, they shall be classified as Class I milk if retransferred to either of these types of regulated or unregulated plants.

§ 999.17 *Interplant movements of cream, and of milk products other than fluid milk products.* Cream and milk products other than fluid milk products moved from the regulated plant of a pool handler to another plant shall be classified as Class II milk.

§ 999.18 *Responsibility of handlers in establishing the classification of milk.* (a) In establishing the classification of any milk received by a handler from producers, the burden rests upon the handler who receives the milk from producers to account for the milk and to prove that such milk should not be classified as Class I milk.

(b) In establishing the classification of any pool milk received in the form of cream or milk products other than fluid milk products, or any nonpool milk or milk products received by a handler, the burden rests upon the receiving handler to account for such milk and milk products and to prove that such milk and milk products should not be classified as Class I milk.

DETERMINATION OF POOL PLANT STATUS

§ 999.20 *Basic requirements for pool plant status.* Each receiving plant shall be a pool plant during each month in which it meets the applicable requirements contained in §§ 999.21 or 999.22, together with the following basic requirements:

(a) A majority of the dairy farmers delivering milk to the plant hold certificates of registration issued pursuant to Chapter 94, Sections 16C and 16G, of the Massachusetts General Laws.

(b) The handler operating the plant holds a license which has been issued by the milk inspector of a city or town in the marketing area, pursuant to Chapter 94, Section 40, of the Massachusetts General Laws, or a majority of the dairy farmers delivering milk to the plant are approved by such an inspector as sources of supply for milk for sale in his municipality.

(c) The plant is operated neither as the plant of a producer-handler nor as a pool plant pursuant to the provisions of the Boston, Lowell-Lawrence, New York or Springfield orders.

(d) Each of a handler's plants which is a nonpool receiving plant during any of the months of October through February shall not be a pool plant in any of the following months of March through September in which it is operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, unless its operation during October through February was in the handler's capacity as a producer-handler.

§ 999.21 *Additional requirements for city pool plants.* Each city receiving plant shall be a pool plant in each month in which at least 10 percent of its total receipts of fluid milk products other than cream is disposed of in the marketing area as Class I milk, or in which it is operated by an association of producers. In determining whether a city plant has disposed of the required 10 percent of its receipts as Class I milk in the marketing area, the total quantity of fluid milk products, other than cream, moved from that plant to another city plant which is a regulated plant shall be considered as a disposition of Class I milk in the marketing area up to the quantity of Class I milk disposed of in the marketing area from the other plant.

§ 999.22 *Additional requirements for country pool plants.* (a) Each country receiving plant shall be a pool plant in any month in which more than 50 percent of its total receipts of fluid milk products, other than cream, is disposed of as Class I milk directly to consumers in the marketing area or is shipped as milk to city plants at which more than 50 percent of the total receipts of fluid milk products, other than cream, is disposed of as Class I milk.

(b) Any country plant which is a pool plant continuously in each of the months from October through February shall be a pool plant continuously for the following months of March through September, regardless of the quantity then disposed of in the marketing area, if the handler's written request for pool plant status for such seven months' period is received by the market administrator before March 1 of that year. Changes in the identity of the handler operating the plant shall not affect the application of this paragraph.

ASSIGNMENT OF RECEIPTS TO CLASSES

§ 999.25 *Assignment of pool handlers' receipts to Class I milk.* For the purpose of computing the net quantity of each pool handler's Class I milk for which a value is to be computed pursuant to § 999.50, his receipts of milk and milk products shall be assigned to Class I milk in the following sequence:

(a) Receipts of exempt milk.

(b) Receipts from regulated plants under other Federal orders, which are assigned to Class I milk pursuant to § 999.27.

(c) Receipts of fluid milk products, other than cream and skim milk, from the regulated city plants of other handlers.

(d) Receipts of milk from producers at a handler's country plant equal to the volume of fluid milk products disposed of directly from the country plant as Class I milk outside the marketing area without being received at a city plant.

(e) Receipts of milk directly from producers at the handler's city plant.

(f) Receipts of outside milk at the handler's city plant.

(g) Receipts of fluid milk products, other than cream and skim milk, from the country pool plants of other handlers, in the order of the nearness of the plants to Worcester.

(h) Receipts of milk from producers at the handler's country plants not previously assigned pursuant to paragraph (d) of this section, in the order of the nearness of the plants to Worcester.

(i) Receipts of outside milk at the handler's country plants, in the order of the nearness of the plants to Worcester.

(j) Receipts of skim milk from regulated city plants and then from regulated country plants.

(k) All other receipts or available quantities of fluid milk products, from whatever source derived.

§ 999.26 *Assignment of pool handlers' receipts to Class II milk.* Each pool handler's receipts of milk and milk products which are not assigned to Class I milk pursuant to § 999.25 shall be assigned to Class II milk.

§ 999.27 *Receipts from other Federal order plants.* Receipts of fluid milk products from plants regulated by other Federal orders shall be assigned as follows:

(a) Receipts of fluid milk products from regulated plants under the Boston order shall be assigned to the class in which they are classified under that order.

(b) Receipts of fluid milk products, other than cream, from regulated plants under the Lowell-Lawrence or Springfield orders shall be assigned to Class I milk, unless the operators of the shipping plant and of the receiving plant file a joint written request to the market administrator for assignment to Class II milk of the fluid milk products so received. In such event, the fluid milk products shall be assigned to Class II milk up to the total Class II uses of fluid milk products other than cream at the receiving plant.

(c) Receipts from New York order pool plants shall be assigned to Class I milk if classified in Classes I–A or I–B under the New York order.

REPORTS OF HANDLERS

§ 999.30 *Monthly reports of pool handlers.* On or before the 8th day after the end of each month each pool handler shall, with respect to the milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production;

(b) The receipts of fluid milk products at each plant from any other handler assigned to classes pursuant to §§ 999.25 through 999.27;

(c) The receipts of outside milk and exempt milk at each plant; and

(d) The quantities from whatever source derived which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 999.15 through 999.18.

§ 999.31 *Reports of nonpool handlers.* Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products. The reports shall be made at the time and in the manner prescribed by the market administrator, except that any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

§ 999.32 *Reports regarding individual producers.* (a) Within 20 days after a producer moves from one farm to another, or starts or resumes deliveries to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

§ 999.33 *Reports of payments to producers.* Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for such month which shall show for each producer:

(a) The daily and total pounds of milk delivered with the average butterfat test thereof; and

(b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

§ 999.34 *Maintenance of records.* Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

§ 999.35 *Verification of reports.* For the purpose of ascertaining the correctness of any report made to the market administrator as required by this subpart or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(a) Verify the information contained in reports submitted in accordance with this subpart;

(b) Weigh, sample, and test milk and milk products; and

(c) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

§ 999.36 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under Section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

MINIMUM CLASS PRICES

§ 999.40 *Class I price at city plants.* The Class I price per hundredweight at city plants shall be determined for each month pursuant to this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday, the latest reported figures available on the next succeeding workday shall be used.

(a) Divide by .98 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the year 1926 as the base period.

(b) Divide by 3 the sum of the three latest monthly indexes of department store sales in the Boston Federal Reserve District adjusted for seasonal variations, as reported by the Federal Reserve System, with the years 1935–39 as the base period and divide the result so obtained by 1.26.

(c) Compute an index of grain-labor costs in the Boston milkshed in the following manner:

(1) Compute the simple average of the four latest weekly average retail prices per ton of dairy ration in the Boston milkshed, as reported by the United States Department of Agriculture, divide by 0.5044, and multiply by 0.6.

(2) For each of the States of Maine, Massachusetts, New Hampshire, and Vermont, compute the simple average, on a monthly equivalent basis, of the following farm wage rates reported by the United States Department of Agriculture: The rate per month with board and room; the rate per month with house; the rate per week with board and room; the rate per week without board or room; and the rate per day without board or room. To convert the weekly rates and the daily rate to monthly equivalents, multiply the weekly rate by 4.33 and the daily rate by 26. From the simple averages, compute a combined weighted average monthly rate, using the following weights: Maine, 10; Massachusetts, 6; New Hampshire, 7; and Vermont, 77. Divide the weighted average monthly rate by 0.6394, and multiply the result by 0.4.

(3) Add the results determined pursuant to subparagraphs (1) and (2) of this paragraph.

(d) Divide by 3 the sum of the final results computed pursuant to the preceding paragraphs of this section. Express the result as a whole number by dropping fractions of less than one-half or by raising fractions of one-half or more to the next whole number. The result shall be known as the formula index.

(e) Subject to the succeeding paragraphs of this section the Class I price per hundredweight at city plants shall be as shown in the following table:

CLASS I PRICE SCHEDULE

Formula index	Class I price per hundredweight		
	Jan.-Feb.-Mar.-July-Aug.-Sept.	Apr.-May-June	Oct.-Nov.-Dec.
50–56	$2.21	$1.77	$2.65
57–63	2.43	1.99	2.87
64–70	2.65	2.21	3.09
71–77	2.87	2.43	3.31
78–84	3.09	2.65	3.53
85–90	3.31	2.87	3.75
91–97	3.53	3.09	3.97
98–104	3.75	3.31	4.19
105–111	3.97	3.53	4.41
112–118	4.19	3.75	4.63
119–125	4.41	3.97	4.85
126–132	4.63	4.19	5.07
133–139	4.85	4.41	5.29
140–146	5.07	4.63	5.51
147–152	5.29	4.85	5.73
153–159	5.51	5.07	5.95
160–166	5.73	5.29	6.17
167–173	5.95	5.51	6.39
174–180	6.17	5.73	6.61
181–187	6.39	5.95	6.83
188–194	6.61	6.17	7.05

If the formula index is more than 194 the price shall be increased at the same rate as would result from further extension of this table at the rate of extension in the six highest index brackets.

(f) The Class I price shall be 44 cents more than the price prescribed in paragraph (e) of this section if, under the provisions of the Boston order, less than 33 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this paragraph would cause the Class I price to be more than 88 cents above the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent increase as will result in a Class I price equal to the Class I price for the same month of the preceding year plus 88 cents.

(g) The Class I price shall be 44 cents less than the price prescribed in paragraph (e) of this section if, under the provisions of the Boston order, more than 41 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this paragraph would cause the Class I price to be more than 88 cents below the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent reduction as will result in a Class I price equal to the Class I price for the same month of the preceding year minus 88 cents.

(h) Notwithstanding the provisions of the preceding paragraphs of this section, the Class I price for any of the months of March through June of each year shall not be higher than the Class I price for the immediately preceding month, and the Class I price for any of the months of September through December of each year shall not be lower than the Class I price for the immediately preceding month.

(i) The Class I price determined under the preceding paragraphs of this section shall be increased or decreased to the extent of any increase or decrease in the rail tariff for the transportation of milk in carlots in tank cars for mileage distances of 201–210 miles, inclusive, as published in the New England Joint Tariff M No. 6 and supplements thereto or revisions thereof. The adjustment shall be made to the nearest one-half cent per hundredweight, and shall be effective in the first complete month in which such increase or decrease in the rail tariff applies.

§ 999.41 *Class II price at city plants.* The Class II price per hundredweight at city plants shall be determined for each month pursuant to this section:

(a) Divide by 33 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the month, multiply by 0.98, and multiply the result by 3.7. If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price: Compute the simple average of the differences between the cream prices reported for the latest three months and the monthly averages of the daily prices, using the mid-point of any range as one price, for Grade A (92-score) butter at wholesale in the Chicago market, as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above multiplied by 33 and 1.22 for the current pricing month.

(b) Multiply by 7.85 the simple average of the prices per pound of roller process and spray process nonfat dry milk solids for human consumption, in carlots, f. o. b. Chicago area manufacturing plants, as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the month during which such milk is delivered.

(c) Add the results obtained in paragraphs (a) and (b) of this section, and from the sum subtract the amount shown below for the applicable month.

Month:	*Amount (cents)*
January and February	67
March and April	79
May and June	85
July	79
August and September	73
October, November, and December	67

(d) For each month following the first month for which the amount determined pursuant to this paragraph is greater than 5 cents, the amount to be subtracted pursuant to paragraph (c) of this section shall be reduced by any plus amount determined as follows:

(1) Compute the simple average of the prices reported by the United States Department of Agriculture for milk for manufacturing purposes, f. o. b. plants United States, for each of the 12 months ending with the preceding month, as adjusted to a 3.7 percent butterfat basis by using the butterfat differential applicable pursuant to § 904.63 of the Boston order for the respective months.

(2) Compute the simple average of the Class II prices effective under the provisions of the Boston order in the 201–210 freight mileage zone for the same 12 months.

(3) Determine the amount, adjusted to the nearest one-half cent, by which the average price computed pursuant to subparagraph (1) of this paragraph exceeds the average price computed pursuant to subparagraph (2) of this paragraph.

§ 999.42 *Country plant price differentials.* In the case of receipts at country plants, the prices determined pursuant to §§ 999.40 and 999.41 shall be subject to differentials based upon the zone location of the plant at which the Class I milk or Class II milk was received. The zone location of each plant shall be based on the distance ascertained by the market administrator as the shortest distance from the plant to the City Hall in Worcester, Massachusetts, over highways on which the highway departments of the governing States permit milk tank trucks to move, or on the railway mileage distance to Worcester from the nearest railway shipping point for such plant, whichever is shorter. The applicable zone differentials shall be those set forth in the following table, as adjusted pursuant to § 999.43.

DIFFERENTIALS FOR DETERMINATION OF ZONE PRICES

A Zone (miles)	B Class I price differentials (cents per cwt.)	C Class II price differentials (cents per cwt.)
Less than 40½	(1)	(1)
41–50	−41.5	−2.0
51–60	−42.5	−3.0
61–70	−43.0	−3.0
71–80	−44.5	−3.0
81–90	−45.0	−3.0
91–100	−45.5	−3.0
101–110	−45.5	−4.5
111–120	−47.0	−4.5
121–130	−47.0	−4.5
131–140	−48.0	−4.5
141–150	−50.5	−4.5
151–160	−52.0	−6.0
161–170	−52.0	−6.0
171–180	−54.5	−6.0
181–190	−54.5	−6.0
191–200	−56.0	−6.0
201–210	−56.0	−7.0
211–220	−60.0	−7.0
221–230	−60.5	−7.0
231–240	−61.5	−7.0
241–250	−61.5	−7.0
251–260	−62.5	−8.0
261–270	−63.0	−8.0
271–280	−63.5	−8.0
281–290	−64.5	−8.0
291 and over	−65.5	−8.0

[1] No differential.

§ 999.43 *Automatic changes in zone price differentials.* In case the rail tariff for the transportation of milk in 40-quart cans in carlots of 200 or more cans or for the transportation of cream in 40-quart cans in carlots of 100-199 cans, as published in New England Joint Tariff M No. 6 and supplements thereto or revisions thereof, is increased or decreased, the zone price differentials set forth in § 999.42 shall be correspondingly increased or decreased in the manner and to the extent provided in this section. Such adjustments shall be effective beginning with the first complete month in which the changes in rail tariffs apply. If such rail tariff on milk is changed, the differentials set forth in Column B of the table shall be adjusted to the extent of any such change. If such rail tariff on cream is changed, the differentials set forth in Column C of the table shall be adjusted to the extent of any such change divided by 9.05. Adjustments shall be made to the nearest one-half cent per hundredweight.

§ 999.44 *Use of equivalent factors in formulas.* If for any reason a price, index, or wage rate specified by this subpart for use in computing class prices and for other purposes is not reported or published in the manner described by this subpart, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

§ 999.45 *Announcement of class prices.* The market administrator shall make public announcements of the class prices as follows:

(a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday he shall announce the Class I price on the next succeeding workday.

(b) He shall announce the Class II price on or before the 5th day after the end of each month.

BLENDED PRICES TO PRODUCERS

§ 999.50 *Computation of net value of milk used by each pool handler.* For each month, the market administrator shall compute the net value of milk which is sold, distributed, or used by each pool handler, in the following manner:

(a) From the handler's total Class I milk, subtract all receipts which have been assigned to Class I milk pursuant to § 999.25 (a), (b), (c), (g), and (j);

(b) From the handler's total Class II milk, subtract all receipts which have been assigned to Class II milk pursuant to § 999.26, except receipts of milk from producers;

(c) Multiply the remaining quantities of Class I milk and Class II milk by the prices applicable pursuant to §§ 999.40, 999.41, and 999.42.

(d) Add together the resulting value of each class;

(e) Add the total amount of the payment required from the pool handler pursuant to § 999.66; and

(f) Subtract the value obtained by multiplying the quantities assigned to Class I milk pursuant to § 999.25 (f), (i), and (k) by the price applicable pursuant to §§ 999.41 and 999.42.

§ 999.51 *Computation of the basic blended price.* The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

(a) Combine into one total the respective net values of milk, computed pursuant to § 999.50 and payments required pursuant to §§ 999.65 and 999.66 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to § 999.61 (b) and §§ 999.65 and 999.66 for milk received during each month since the effective date of the most recent amendment to this subpart;

(b) Add the amount of unreserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 999.61, 999.62, 999.65, 999.66, and 999.67;

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable pursuant to § 999.64;

(d) Divide by the total quantity of producer milk for which a value is determined pursuant to paragraph (a) of this section; and

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in §§ 999.61 and 999.62. This result, which is the minimum blended price for milk containing 3.7 percent butterfat received from producers at city plants, shall be known as the basic blended price.

§ 999.52 *Announcement of blended prices.* On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

(a) Such of these computations as do not disclose information confidential pursuant to the act;

(b) The zone blended prices per hundredweight resulting from adjustment of the basic blended price by the country plant price differentials pursuant to § 999.64; and

(c) The names of the pool handlers, designating those whose milk is not included in the computations because of failure to make reports or payments pursuant to this subpart.

PAYMENTS FOR MILK

§ 999.60 *Advance payments.* On or before the 10th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall such advance payment be at a rate less than the Class II price for such month. The provisions of this section shall not apply to any handler who, on or before the 17th day after the end of the month, makes final payment as required by § 999.61 (a).

§ 999.61 *Final payments.* Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 999.50 as follows:

(a) On or before the 25th day after the end of each month to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 999.63 and 999.64 for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to, on or before the 23d day after the end of each month, or receiving from the market administrator, on or before the 25th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price adjusted by the plant and farm location differentials provided in § 999.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 999.50, as shown in a statement rendered by th market administrator on or before the 20th day after the end of such month.

§ 999.62 *Adjustments of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments pursuant to §§ 999.61 (b), 999.65, or 999.66, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is payable by the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 999.61 (a), the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

§ 999.63 *Butterfat differential.* Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator as follows: Divide by 33 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, subtract 1.5 cents, and divide the result by 10. If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price: Compute the simple average of the differences between the cream price reported for the latest three months and the monthly averages of the daily price, using the mid-point of any range as one price, for Grade A (92-score) butter at wholesale in the Chicago market, as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above, for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, multiplied by 33 and 1.22.

§ 999.64 *Location differentials.* The payments to be made to producers by handlers pursuant to paragraph (a) of § 999.61 shall be subject to the Class I price differentials applicable pursuant to § 999.42 and to further differentials as follows:

(a) With respect to milk delivered by a producer whose farm is located in Franklin, Hampshire, Hampden, Worcester, Middlesex, or Norfolk Counties in Massachusetts, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 999.40 and 999.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price.

§ 999.65 *Payments on outside milk.* Within 23 days after the end of each month handlers shall make payments to producers, through the market administrator, as follows:

(a) Each buyer-handler or producer-handler whose receipts of outside milk are in excess of his total use of Class II milk after deducting receipts of cream shall make payment on such excess quantity at the difference between the Class I and Class II prices pursuant to §§ 999.40, 999.41, and 999.42 effective for the location or freight mileage zone of the plant at which the handler received the outside milk.

(b) Each handler who operates an unregulated plant from which outside milk is disposed of to consumers in the marketing area without intermediate movement to another plant shall make payment on the quantity so disposed of. The payment shall be at the difference between the Class I and Class II prices pursuant to §§ 999.40, 999.41, and 999.42 effective for the location or freight mileage zone of the handler's plant.

§ 999.66 *Payments on Class I receipts from other Federal order plants.* Within 23 days after the end of each month, each pool handler, buyer-handler, or producer-handler who received Class I milk from a New York, Boston, Lowell-Lawrence, or Springfield order regulated plant during the month shall make such payment to producers, through the market administrator, as results from the following computation:

(a) Adjust the price pursuant to §§ 999.40 and 999.42 effective for the location or freight mileage zone of the plant from which the Class I milk was received by the butterfat differential calculated pursuant to § 999.63.

(b) Adjust the zone Class I price applicable under the other Federal order (Class I–A or I–B in the case of a New York order plant) by the butterfat differential applicable under that order.

(c) If the adjusted Class I price calculated under paragraph (a) of this section exceeds the corresponding price calculated under paragraph (b) of this section, multiply the quantity of Class I receipts from the other Federal order plant by the difference in price.

§ 999.67 *Adjustment of overdue accounts.* Any balance due pursuant to §§ 999.61, 999.62, 999.65, and 999.66 to or from the market administrator on the 10th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent, effective the 11th day of such month.

§ 999.68 *Statements to producers.* In making the payments to producers prescribed by § 999.61 (a), each pool handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of § 999.61 (a);

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 999.70 and 999.71, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

MARKETING SERVICES

§ 999.70 *Marketing service deduction; nonmembers of an association of producers.* In making payments to producers pursuant to § 999.61 (a), each handler shall, with respect to all milk delivered by each producer other than himself during each month, except as set forth in § 999.71, deduct 3 cents per hundredweight, or such lesser amount as the market administrator shall determine to be sufficient, and shall on or before the 25th day after the end of each month, pay such deductions to the market administrator. Such moneys shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

§ 999.71 *Marketing service deductions with respect to members of an association of producers.* In the case of producers who are members of an association of producers which is actually performing the services set forth in § 999.70, each handler shall, in lieu of the deductions specified in § 999.70, make such deduc-

tions from payments made pursuant to § 999.61 (a) as may be authorized by such producers and pay, on or before the 25th day after the end of each month, such deduction to such associations.

ADMINISTRATION EXPENSE

§ 999.72 *Expense of administration.* Within 23 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this subpart, based on the handler's receipts of fluid milk products, other than cream, during the month. The payment shall be at the rate of 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, on the handler's receipts of milk from producers, including receipts from his own production, receipts of exempt milk, processed at a regulated plant, and his receipts of outside milk, except receipts of outside milk from other Federal order plants; and at the rate by which the rate applicable to milk received from producers exceeds the rate of assessment applicable under the other Federal order, on his receipts from other Federal order plants.

OBLIGATIONS

§ 999.73 *Termination of obligations.* The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable.

Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books or records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c (15) (A) of the act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 999.80 *Effective time.* The provisions of this subpart, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 999.81.

§ 999.81 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This subpart shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 999.82 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 999.83 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this subpart, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this subpart, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 999.84 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

Issued at Washington, D. C., this 26th day of September 1951, to be effective on and after the 1st day of October 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-11764; Filed, Sept. 28, 1951; 8:50 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 55]

PART 600—DESIGNATION OF CIVIL AIRWAYS

CIVIL AIRWAY ALTERATIONS

The civil airway alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee and are adopted when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to public interest, and therefore is not required.

1. Section 600.210 *Red civil airway No. 10 (Pueblo, Colo., to Charleston, S. C.)*, is amended by changing the portion between Atlanta, Ga., radio range station and the Charleston, S. C., radio range station to read: "Atlanta, Ga., radio range station, excluding the portion which overlaps the Camp Gordon, Ga., Danger Area, to the Augusta, Ga., radio range station. From the intersection of the northeast course of the Augusta, Ga., radio range and the northwest course of the Charleston, S. C., radio range to the Charleston, S. C., radio range station."

2. Section 600.254 is amended to read:

§ 600.254 *Red civil airway No. 54. (Burley, Idaho to Salt Lake City, Utah).* From the Burley, Idaho, radio range station via the Promontory Point, Utah, non-directional radio beacon to a point located at Latitude 40°47'00", Longitude 112°23'00".

3. Section 600.268 is amended to read:

§ 600.268 *Red civil airway No. 68 (El Paso, Tex., to Shreveport, La.).* From the El Paso, Tex., omnirange station via the Hudspeth, Tex., omnirange station; the Culberson, Tex., omnirange station; the intersection of the Culberson omnirange 90° True enroute radial and the Midland omnirange 234° True enroute radial to the Midland, Tex., omnirange station. From the Midland, Tex., radio range station via the San Angelo, Tex., radio range station; the intersection of the northeast course of the San Angelo, Tex., radio range and the south course of the Abilene, Tex., radio range to the

Abilene, Tex., radio range station. From the intersection of the west course of the Fort Worth, Tex., radio range and the northwest course of the Waco, Tex., radio range via the intersection of the northwest course of the Waco, Tex., radio range and the west course of the Dallas, Tex., radio range to the Dallas, Tex., radio range station. From the Tyler, Tex., radio range station via the Longview, Tex., Gregg County Airport, to the Shreveport, La., radio range station.

4. Section 600.269 is amended to read:

§ 600.269 *Red civil airway No. 69 (Culberson, Tex., to Big Spring, Tex.).* From the intersection of the Culberson, Tex., omnirange 90° True enroute radial and the Wink, Tex., omnirange 235° True enroute radial to the Wink, Tex., omnirange station. From the Midland, Tex., radio range station to the intersection of the northeast course of the Midland, Tex., radio range and the southwest course of the Big Spring, Tex., radio range.

5. Section 600.281 is amended to read:

§ 600.281 *Red civil airway No. 81 (Cadillac, Mich., to Elkins, W. Va.).* From the Cadillac, Mich., non-directional radio beacon via the Lansing, Mich., radio range station; the intersection of the southeast course of the Lansing, Mich., radio range and the west course of the Detroit, Mich., radio range; the Toledo, Ohio omnirange station to the Columbus, Ohio, omnirange station. From the Columbus, Ohio radio range station via the Parkersburg, W. Va., VHF radio range station to the intersection of the southeast course of the Parkersburg, W. Va., VHF radio range and the west course of the Elkins, W. Va., radio range.

6. Section 600.303 is amended to read:

§ 600.303 *Red civil airway No. 103 (Indianapolis, Ind., to Cleveland, Ohio).* From the Indianapolis, Ind., omnirange station via the Findlay, Ohio, omnirange station to the Cleveland, Ohio, omnirange station.

7. Section 600.309 is added to read:

§ 600.309 *Red civil airway No. 109 (Toledo, Ohio to Mansfield, Ohio).* From the Toledo, Ohio, omnirange station to the Mansfield, Ohio, omnirange station.

8. Section 600.310 is added to read:

§ 600.310 *Red civil airway No. 110 (Santa Fe, N. Mex., to Anton Chico, N. Mex.).* From the Santa Fe, N. Mex., omnirange station to the Anton Chico, N. Mex., omnirange station.

9. Section 600.618 is amended by changing caption to read:

§ 600.618 *Blue civil airway No. 18 (Philadelphia, Pa., to U. S.-Canadian Border)* and by changing last portion to read: "Albany, N. Y., radio range station; Burlington, Vt., radio range station to the intersection of the northeast course of the Burlington, Vt., radio range and the U. S.-Canadian Border."

10. Section 600.685 is added to read:

§ 600.685 *Blue civil airway No. 85 (Hutchinson, Kans., to Wichita, Kans.).* From the Hutchinson, Kans., radio range station to the intersection of the south course of the Hutchinson, Kans., radio range and the southwest course of the Wichita, Kans., radio range.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 302, 52 Stat. 985, as amended; 49 U. S. C. 452)

This amendment shall become effective 0001 e. s. t., October 2, 1951.

[SEAL] F. B. LEE,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 51-11720; Filed, Sept. 28, 1951; 8:45 a. m.]

[Amdt. 59]

PART 601—DESIGNATION OF CONTROL AREAS, CONTROL ZONES, AND REPORTING POINTS

ALTERATIONS

The control area, control zone and reporting point alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and are adopted when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to public interest, and therefore is not required.

1. Section 601.201 *Red civil airway No. 1 control areas (Portland, Oreg., to Kansas City, Mo.)*, is amended by deleting the portion which reads: "from the Salina, Kans., omnirange station to the Topeka, Kans., VHF VAR radio range station via the Salina, Kans., omnirange direct en route radial; from the Topeka, Kans., VHF VAR radio range station to the Kansas City, Mo., omnirange station via the Kansas City, Mo., omnirange direct en route radial," and by adding in lieu thereof: "from the Salina, Kans., omnirange station to the Topeka, Kans., omnirange station via the direct en route and 15° south altitude change radials; from the Topeka, Kans., omnirange station to the Kansas City, Mo., omnirange stationvia the direct en route radials."

2. Section 601.210 *Red civil airway No. 10 control areas (Pueblo, Colo., to Charleston, S. C.)*, is amended by deleting the portion which reads: "From the Augusta, Ga., omnirange station to the Charleston, S. C., omnirange station via the direct en route and 15° south altitude change radials."

3. Section 601.269 is amended by changing caption to read: § 601.269 *Red civil airway No. 69 control areas (Culberson, Tex., to Big Spring, Tex.)*

4. Section 601.270 *Red civil airway No. 70 control areas (Midland, Tex., to Oklahoma City, Okla.)*, is amended by adding the following portion to present control areas: "including the area from the intersection of the Lubbock, Tex., omnirange 199° True en route radial and the Hobbs, N. Mex., omnirange 86° True enroute radial to the Lubbock, Tex., omnirange station via the Lubbock omnirange 199° True en route radial."

5. Section 601.288 *Red civil airway No. 88 control areas (Albuquerque, N. Mex., to Hobbs, N. Mex.)*, is amended by adding the following portion to present control areas: "from the Hobbs, N. Mex., omnirange station to the intersection of the Hobbs omnirange 86° True en route radial and the Lubbock, Tex., omnirange 199° True en route radial via the Hobbs omnirange 86° True en route radial."

6. Section 601.303 is amended to read:

§ 601.303 *Red civil airway No. 103 control areas (Indianapolis, Ind., to Cleveland, Ohio).* All of Red civil airway No. 103.

7. Section 601.309 is added to read:

§ 601.309 *Red civil airway No. 109 control areas (Toledo, Ohio, to Mansfield, Ohio).* All of Red civil airway No. 109.

8. Section 601.310 is added to read:

§ 601.310 *Red civil airway No. 110 control areas (Santa Fe, N. Mex., to Anton Chico, N. Mex.).* All of Red civil airway No. 110.

9. Section 601.618 is amended by changing caption to read:

§ 601.618 *Blue civil airway No. 18 control areas (Philadelphia, Pa., to United States-Canadian Border).*

10. Section 601.685 is added to read:

§ 601.685 *Blue civil airway No. 85 control areas (Hutchinson, Kans., to Wichita, Kans.).* All of Blue civil airway No. 85.

11. Section 601.1010 is amended to read:

§ 601.1010 *Control area extension (Charlotte, N. C.).* All that area within a 25 mile radius of the Charlotte, N. C., radio range station and all that area within 5 miles either side of the Charlotte ILS localizer course extending from the localizer to a point 30 miles southwest.

12. Section 601.1086 is amended to read:

§ 601.1086 *Control area extension (Memphis, Tenn.).* All that area within a 25 mile radius of the Memphis, Tenn., radio range station and all that area within a 10 mile radius of the Memphis Naval Air Station excluding the portion which lies within Amber Civil Airway No. 5.

13. Section 601.1127 *Control area extension (Charleston, S. C.)* is revoked.

14. Section 601.1182 is amended to read:

§ 601.1182 *Control area extension (Enid, Okla.).* All that area within a 25 mile radius of the Enid, Okla., Vance AFB, radio range station.

15. Section 601.1251 *Control area extension (Mansfield, Ohio)*, is amended by adding the following to present control area extension: "including all that area west of the Mansfield omnirange station bounded on the southeast by Red civil airway No. 85, on the southwest by

Red Civil airway No. 55 and on the north by Red civil airway No. 17."

16. Section 601.1984, *5-mile control zone*, is amended by deleting the following airport:

Sunnyvale, Calif.: Moffett Field.

By adding the following airports:

Phoenix, Ariz.: Luke AFB.
Mountain View, Calif.: Moffett NAS.

By correcting airport names as follows:

From "Philipsburg, Pa.: Black Moshannon Airport" to "Philipsburg, Pa.: Philipsburg Airport".
From "Portland, Oreg.: Portland AAF" to "Portland, Oreg.: Portland International Airport".
From "Reno, Nev.: Hubbard Field" to "Reno, Nev.: United Air Lines Airport".

17. Section 601.2114 is amended to read:

§ 601.2114 *Minneapolis, Minn., control zone.* Within a 5-mile radius of the Minneapolis-St. Paul International Airport extending 2 miles either side of the southeast course of the Minneapolis radio range to the Hastings Fan Marker.

18. Section 601.2131 is amended to read:

§ 601.2131 *Augusta, Ga., control zone.* Within a 5-mile radius of Bush Field, Augusta, Ga., extending 2 miles either side of a direct line from Bush Field to the Augusta, Ga., radio range station and extending 2 miles either side of the west course of the Augusta radio range to a point 10 miles west of the radio range station.

19. Section 601.2295 is added to read:

§ 601.2295 *Andrews, Md., control zone.* Within a 5-mile radius of the Andrews, Md., Air Force Base extending 2½ miles either side of the north course of the Andrews AFB radio range to the Andrews AFB radio range station.

20. Section 601.4268 is amended to read:

§ 601.4268 *Red civil airway No. 68 (El Paso, Tex., to Shreveport, La.).* Hudspeth, Tex., omnirange station; Culberson, Tex., omnirange station; Midland, Tex., omnirange station; the Midland, Tex., radio range station.

21. Section 601.4269 is amended by changing caption to read: § 601.4269 *Red civil airway No. 69 (Culberson, Tex., to Big Spring, Tex.).*

22. Section 601.4303 is amended by changing caption to read: § 601.4303 *Red civil airway No. 103 (Indianapolis, Ind., to Cleveland, Ohio).*

23. Section 601.4309 is added to read:

§ 601.4309 *Red civil airway No. 109 (Toledo, Ohio to Mansfield, Ohio).* No reporting point designation.

24. Section 601.4310 is added to read:

§ 601.4310 *Red civil airway No. 110 (Santa Fe, N. Mex., to Anton Chico, N. Mex.).* No reporting point designation.

25. Section 601.4618 is amended by changing caption to read: § 601.4618 *Blue civil airway No. 18 (Philadelphia, Pa., to U. S.-Canadian Border).*

26. Section 601.4685 is added to read:

§ 601.4685 *Blue civil airway No. 85 (Hutchinson, Kans., to Wichita, Kans.).* No reporting point designation.

27. Section 601.5001 *Other reporting points* is amended by deleting the following compulsory reporting point:

Midland, Tex., omnirange station.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective 0001 e. s. t., October 2, 1951.

[SEAL] F. B. LEE,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 51-11721; Filed, Sept. 28, 1951; 8:45 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5673]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

QUAKER DISTRIBUTORS, INC. ET AL.

Subpart—*Misrepresenting oneself and goods—Business status, advantages or connections:* § 3.1395 *Connections and arrangements with others;* § 3.1513 *Operations generally: Goods:* § 3.1740 *Scientific or other relevant facts: Prices:* § 3.1825 *Usual as reduced or to be increased.* Subpart—*Offering unfair, improper and deceptive inducements to purchase or deal:* § 3.2070 *Special offers, savings and discounts:* § 3.2080 *Terms and conditions.* In connection with the offering for sale, sale and distribution of aluminum ware or other merchandise in commerce, representing, directly or by implication, (1) that respondents are conducting a poll or survey; (2) that the purchasers of the said merchandise are being given a reduced price for such merchandise or any other valuable consideration as a premium or reward for their collection of box tops, clipping of advertistments, cooperation in furnishing information or participation in any other similar project or activity; (3) that the said merchandise is being sold at a substantial discount or reduction in price when the price so charged is the usual and customary price at which they sell the said merchandise in the ordinary course of business; or, (4) that respondents' aluminum ware can be used for cooking foods in general without the use of water; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Quaker Distributors, Inc., et al., Docket 5673, August 6, 1951]

In the Matter of Quaker Distributors, Inc., a Corporation, and Jack Weinstock, Nathan Loesberg, Robert Bertin, Jack Gerstel and Louis Tafler, Individually and as Officers of Quaker Distributors, Inc.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the respondents' answer thereto, testimony and other evidence in support of and in opposition to the allegations of the complaint introduced before a trial examiner of the Commission theretofore duly designated by it, the trial examiner's recommended decision and exceptions thereto of counsel for respondents, briefs and oral argument of counsel, and the Commission having ruled on the exceptions to the trial examiner's recommended decision and having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent Quaker Distributors, Inc., a corporation, and its officers, representatives, agents and employees and the individual respondents Jack Weinstock, Nathan Loesberg, Robert Bertin, Jack Gerstel, and Louis Tafler and their respective representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of aluminum ware or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication:

1. That they are conducting a poll or survey;

2. That the purchasers of the said merchandise are being given a reduced price for such merchandise or any other valuable consideration as a premium or reward for their collection of box tops, clipping of advertisements, cooperation in furnishing information or participation in any other similar project or activity;

3. That the said merchandise is being sold at a substantial discount or reduction in price when the price so charged is the usual and customary price at which they sell the said merchandise in the ordinary course of business;

4. That respondents' aluminum ware can be used for cooking foods in general without the use of water.

It is further ordered, That the respondents shall within sixty (60) days after service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: August 6, 1951.

By the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 51-11751; Filed, Sept. 28, 1951; 8:48 a. m.]

[Docket 5846]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

PLYMOUTH WOOLEN MILL

Subpart—*Misbranding or mislabeling:* § 3.1190 *Composition: Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure:* § 3.1845 *Composition: Wool Products Labeling Act.* In connection

with the introduction or manufacture for introduction into commerce, or the sale, transportation or distribution of wool products in commerce, misbranding such wool products, as defined in and subject to the Wool Products Labeling Act of 1939, which contain, or purport to contain, or in any way are represented as containing "wool", "reprocessed wool" or "reused wool" as those terms are defined in said act, (1) by falsely or deceptively stamping, tagging, labeling or otherwise identifying such products; and (2) by failing to securely affix or place on such products a stamp, tag, label or other means of identification showing in a clear and conspicuous manner, (a) the percentage of the total fiber weight of such wool products exclusive of ornamentation, not exceeding five per centum of said total weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five per centum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of any nonfibrous loading, filling or adulterating matter; and (c) the name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool products into commerce, or in the offering for sale, sale, transportation or distribution thereof in commerce, as "commerce" is defined in the Federal Trade Commission Act and in the Wool Products Labeling Act of 1939; prohibited, subject to the proviso, however, that the provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939; and to the further provision that nothing contained in the order shall be construed as limiting any applicable provisions of said Act or of the rules and regulations promulgated thereunder.

(Sec. 6, 38 Stat. 722, sec. 6, 54 Stat. 1131; 15 U. S. C. 46, 68d. Interprets or applies sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U. S. C. 45, 68–68c) [Cease and desist order, Clarence Littlefield d. b. a. Plymouth Woolen Mill, Docket 5846, July 21, 1951]

This proceeding was heard by James A. Purcell, trial examiner, upon the Commission's complaint, respondent's answer thereto, and an initial hearing for the taking of testimony and reception of evidence at which time respondent filed his formal motion to withdraw the original answer and to file a substitute answer.

Said motion was granted by said trial examiner and said respondent filed his substitute answer admitting all the material allegations of fact charged in the complaint and waiving all intervening procedure and further hearing as to said facts. Following the closing of the matter for the reception of testimony, and the fixing of a date for the filing of proposed findings and conclusions, such findings and conclusions, and a proposed order to cease and desist were filed by the attorney in support of the complaint, but not by respondent.

Thereafter the proceeding regularly came on for final consideration by said trial examiner, theretofore duly designated by the Commission, upon said complaint and the substitute answer, and said trial examiner, having duly considered the record in the matter and having found that the proceeding was in the interest of the public, made his initial decision, comprising certain findings as to the facts, conclusions drawn therefrom, and order to cease and desist.

No appeal having been filed from said initial decision of said trial examiner as provided for in Rule XXII, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order to cease and desist, accordingly, under the provisions of said Rule XXII became the decision of the Commission on July 21, 1951.

The said order to cease and desist is as follows:

It is ordered, That the respondent, Clarence Littlefield, an individual doing business as the Plymouth Woolen Mill, his agents, representatives and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, transportation or distribution of wool products in commerce, as "commerce" is defined in the aforesaid Acts, do forthwith cease and desist from misbranding such wool products, as defined in and subject to the Wool Products Labeling Act of 1939, which contain, or purport to contain, or in any way are represented as containing "wool," "reprocessed wool" or "reused wool" as those terms are defined in said act:

(1) By falsely or deceptively stamping, tagging, labeling or otherwise identifying such products;

(2) By failing to securely affix to or place on such products a stamp, tag, label or other means of identification showing in a clear and conspicous manner:

(a) The percentage of the total fiber weight of such wool products exclusive of ornamentation, not exceeding five per centum of said total weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five per centum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of the wool product of any nonfibrous loading, filling or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool products into commerce, or in the offering for sale, sale, transportation or distribution thereof in commerce, as "commerce" is defined in the Federal Trade Commission Act and in the Wool Products Labeling Act of 1939;

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939; and

Provided further, That nothing contained in this order shall be construed as limiting any applicable provisions of said act or of the rules and regulations promulgated thereunder.

By "Decision of the Commission and order to file report of compliance", Docket 5846, July 21, 1951, which announced and decreed fruition of said initial decision, report of compliance with the said order was required as follows:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Issued: July 20, 1951.

By the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 51-11752; Filed, Sept. 28, 1951; 8:49 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Rent Stabilization, Economic Stabilization Agency

[Controlled Housing Rent Reg., Amdt. 401]

[Controlled Rooms in Rooming Houses and Other Establishments, Rent Reg. Amdt. 396]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CALIFORNIA, GEORGIA, AND MISSOURI

Amendment 401 to the Controlled Housing Rent Regulation (§§ 825.1 to 825.12) and Amendment 396 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92). Said regulations are amended in the following respect:

In Schedule A, Items 39, 40, and 172 are amended to read and new Item 80 is added to Schedule A, all as follows:

State and name of defense-rental area	Class	County or counties in defense-rental areas under regulation	Maximum rent date	Effective date of regulation
California				
(39) San Luis Obispo	B	San Luis Obispo	Jan 1, 1941	July 1, 1942
	C	do	Aug. 1, 1950	Sept. 27, 1951
(40) Santa Maria	B	In Santa Barbara, Judicial Townships Numbers 4, 5, 8, and 9.	July 1, 1941	Dec. 1, 1942
	C	do	Aug. 1, 1950	Sept. 27, 1951
Georgia				
(80) Valdosta	A	Lowndes	Apr. 1, 1951	Do.
Missouri				
(172) Rolla-Waynesville	B	Laclede, Phelps, and Pulaski	Apr. 1, 1941	July 1, 1942
	C	do	Aug. 1, 1950	Sept. 27, 1951

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894.)

This amendment shall be effective September 27, 1951.

Issued this 26th day of September 1951.

TIGHE E. WOODS,
Director of Rent Stabilization.

[F. R. Doc. 51-11748; Filed, Sept. 26, 1951; 12:41 p. m.]

[Controlled Housing Rent Reg., Amdt. 402]

[Controlled Rooms in Rooming Houses and Other Establishments, Rent Reg. Amdt. 397]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

LOUISIANA AND WYOMING

Amendment 402 to the Controlled Housing Rent Regulations (§§ 825.1 to 825.12) and Amendment 397 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92). Said regulations are amended in the following respects:

1. Schedule A, Item 133, is amended to read as follows:

[Revoked and decontrolled.]

This decontrols the entire Monroe-Bastrop, Louisiana, Defense-Rental Area, consisting of the Parish of Ouachita, Louisiana.

2. Schedule A, Item 369e, is amended to read as follows:

[Revoked and decontrolled.]

This decontrols the entire Sheridan, Wyoming, Defense-Rental Area, consisting of the County of Sheridan, Wyoming.

All decontrols effected by this amendment are on the initiative of the Director of Rent Stabilization in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894.)

This amendment shall be effective September 29, 1951.

Issued this 26th day of September 1951.

TIGHE E. WOODS,
Director of Rent Stabilization.

[F. R. Doc. 51-11749; Filed, Sept. 28, 1951; 8:48 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

[Amdt. 31]

PART 1619—CANCELLATION OF REGISTRATION

DETERMINATION OF CANCELLATION OF REGISTRATION

The Selective Service Regulations are hereby amended as follows:

Section 1619.2 is amended to read as follows:

§ 1619.2 *General nature of determination.* (a) Whenever under the provisions of § 1619.1 a local board is considering the question of whether the registrant is a person required by law to be registered, it shall apply the pertinent provisions of Part 1611 of this chapter. Ordinarily, the issues involved will be whether the registrant is within an age group required to be registered or whether he is one of the persons exempt by law from registration.

(b) Section 1611.2 of this chapter provides that certain persons are not required to be registered so long as they have a certain status. If such a person has improperly registered at a time when he was exempt from registration, and there has been no subsequent change in his status which would render him liable for registration, a determination that he is a person not required by law to be registered and the cancellation of his registration following such a determination is proper. However, if a person has registered at a time when he was required by law to present himself for and submit to registration, the fact that thereafter he has acquired a status within one of the groups of persons exempt from registration does not furnish a basis for the cancellation of his registration.

(c) A person under 18 years of age is not a person required by law to be registered, and a determination to that effect upon proper application or upon the local board's own motion at a time when the registrant is still under 18 years of age will usually follow as a matter of course unless the registrant is a person 17 years of age who has volunteered for induction with the written consent of his parents or guardian. However, if such a person has been inducted into and remains in the armed forces as the result of his premature registration, the local board shall not initiate action in such a case, and in no event shall the registration be cancelled so long as such person remains in the armed forces.

(Sec. 10, 62 Stat. 618, as amended; 5 U. S. C. App. Sup., 460. E. O. 9979, July 20, 1948, 13 F. R. 4177; 3 CFR, 1948 Supp.)

The foregoing amendment to the Selective Service Regulations shall be effective immediately upon the filing hereof with the Division of the Federal Register.

[SEAL] LEWIS B. HERSHEY,
Director of Selective Service.

SEPTEMBER 26, 1951.

[F. R. Doc. 51-11736; Filed, Sept. 28, 1951; 8:47 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter II—Economic Stabilization Agency

[General Order 11]

GO 11—RENT CONTROL IN CRITICAL DEFENSE HOUSING AREAS

Sec.
1. Purpose.
2. Legal basis.
3. Statutory requirements for imposition of rent controls.
4. Procedure.
5. Effect on other orders.

AUTHORITY: Sections 1 to 5 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154.

SECTION 1. *Purpose.* The purpose of this order is to provide for determinations by the Economic Stabilization Administrator regarding the adequacy of real estate construction credit relaxations in critical defense housing areas, as a necessary prerequisite to rent control in such areas.

SEC. 2. *Legal basis.* The basic authority for the introduction of rent control in critical defense housing areas is contained in the Housing and Rent Act of 1947, as amended; the Defense Production Act of 1950, as amended; Executive Order 10161 of September 9, 1950; Executive Order 10276 of July 31, 1951; and Economic Stabilization Agency General Order No. 9 of July 31, 1951.

SEC. 3. *Statutory requirements for imposition of rent controls.* Rent control on all types of residential units can be established in an area only after the following separate and distinct conditions are met:

(a) The Secretary of Defense and the Director of Defense Mobilization, acting jointly, have certified to the President that the area is a "critical defense housing area."

(b) The Federal Reserve Board and the Housing and Home Finance Agency have relaxed real estate construction credit controls in the area.

(c) The Economic Stabilization Administrator has determined that real estate construction credit controls have been relaxed "to the extent necessary to encourage construction of housing for defense workers and military personnel."

SEC. 4. *Procedure.* (a) The Economic Stabilization Administrator first is furnished with: (1) The certification of a critical defense housing area, made by the Secretary of Defense and the Director of Defense Mobilization, and (2) relaxation of residential credit restrictions in the area, made by the Administrator, Housing and Home Finance Agency, and the Board of Governors of the Federal Reserve System.

(b) Following a review of the circumstances by the Administrator's Office, a "Determination" is then made and issued by the Administrator indicating whether real estate construction credit controls have been sufficiently relaxed "to the extent necessary to encourage construction of housing for defense workers and military personnel."

(c) Where the Administrator determines that there has been adequate relaxation of real estate construction credit controls, the Office of Rent Stabilization thereupon immediately makes appropriate provision for rent controls in the area.

(d) The critical defense housing areas approved under terms of this order for rent control purposes are listed in Attachment No. 1.

SEC. 5. *Effect on other orders.* Any other orders or parts of orders the provisions of which are inconsistent or in conflict with the provisions of this order are hereby superseded or amended accordingly.

Issued: Washington, D. C., September 27, 1951.

ERIC JOHNSTON,
Administrator.

ATTACHMENT NO. 1

CRITICAL DEFENSE HOUSING AREAS APPROVED UNDER TERMS OF GENERAL ORDER NO. 11 FOR RENT CONTROL PURPOSES

1. San Diego, California, Area. (Includes the portion of San Diego County lying west of the San Bernardino meridian.)
2. Savannah River Area. (Includes Richmond County, Georgia; and Aiken, Allendale, and Barnwell Counties, South Carolina.)
3. Davenport, Iowa; Rock Island-Moline, Illinois, Area. (Includes all of Rock Island County, Illinois, and Scott County, Iowa.)
4. Brazoria County, Texas, Area. (Includes Brazoria County.)
5. Borger, Texas, Area. (Includes Hutchinson County.)
6. Arco-Blackfoot-Idaho Falls, Idaho, Area. (Includes Butte County; Bingham County, except Sterling, Aberdeen 1 and Aberdeen 2 precincts; and Bonneville County, except Poplar, Antelope, Ozone, Palisade, Grays, Blowout, and Jack-knife precincts.)
7. Camp Cooke-Camp Roberts, California, Area. (This area is comprised of San Luis Obispo County and part of Santa Barbara County (judicial townships 4, 5, 8, and 9), California.)
8. Fort Leonard Wood, Missouri, Area. (This area is comprised of Laclede, Phelps, and Pulaski Counties, Missouri.)
9. Valdosta, Georgia, Area. (This area is comprised of Lowndes County, Georgia.)
10. Tooele, Utah, Area. (This area is comprised of the portion of Tooele County, Utah, east of the Great Salt Lake Desert and Precinct 4 in Salt Lake County.)
11. Huntsville, Alabama, Area. (This area includes all of Madison County, Alabama.)

[F. R. Doc. 51-11831; Filed, Sept. 27, 1951; 4:26 p. m.]

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 22, Amdt. 2 to Supplementary Regulation 12]

CPR 22—MANUFACTURERS' GENERAL CEILING PRICE REGULATION

SR 12—EXTENSION OF EFFECTIVE DATE FOR PARTICULAR COMMODITIES

EXTENSION OF TERMINATION DATE

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 2 to Supplementary Regulation 12 to Ceiling Price Regulation 22 is hereby issued.

STATEMENTS OF CONSIDERATIONS

On June 29, 1951, Supplementary Regulation 12 to Ceiling Price Regulation 22 was issued granting an option to manufacturers to elect not to use, until further action by the Director of Price Stabilization, the provisions of CPR 22 for pricing certain listed commodities. At that time the mandatory effective date of CPR 22 which otherwise would have applied to these commodities was July 2, 1951. Most of the listed commodities were ones for which the Office of Price Stabilization expected shortly to issue regulations incorporating pricing techniques of a substantially different character and the purpose of the supplementary regulation was to avoid requiring manufacturers to determine ceiling prices under both CPR 22 and the new regulations to be issued.

By Amendment 1 to SR 12 to CPR 22 issued July 30, 1951, the option to elect not to use CPR 22 for those commodities was changed to run only until October 1, 1951. Amendment 21 to CPR 22, issued August 9, 1951, extended for an indefinite period the mandatory effective date of CPR 22. As a result of this latter amendment, commodities listed in SR 12 would not have to be priced under CPR 22 until a mandatory effective date for CPR 22 is established, even if that date is subsequent to October 1, 1951. In most cases, therefore, the lapse of the period within which the option could be exercised under SR 12 would be immaterial. However, it has come to the attention of the Director of Price Stabilization that there are some cases in which manufacturers desire to elect to make CPR 22 effective for commodities covered by that regulation, but not for commodities listed in SR 12. Under Amendment 21 to CPR 22, if a manufacturer elects to use CPR 22 before a mandatory effective date is established, he must use it for all commodities subject to its provisions. This would mean that after October 1, 1951, the date on which the option under SR 12 lapses, a manufacturer electing to use CPR 22 would have also to use it for the commodities listed in SR 12 unless, of course, a new regulation covering any of such commodities had become effective. In view of the fact that work is still progressing on regulations relating to these commodities and that the effect of the Defense Production Act Amendments of 1951 on these regulations is still under consideration, the Director has determined that the option period specified in SR 12 should be extended from October 1, 1951, to December 1, 1951. This will avoid the necessity of pricing the commodities listed therein under CPR 22, in the event a manufacturer wishes to use CPR 22 for his other commodities covered by that regulation, and carries out the original intent of SR 12 to avoid double computation of ceiling prices.

In formulating this amendment, the Director has consulted with industry representatives to the extent practicable under existing circumstances and has given consideration to their recommendations.

AMENDATORY PROVISIONS

The first sentence of section 1 (a) of Supplementary Regulation 12 to CPR 22 is amended by substituting for the language "until October 1, 1951" the language "until December 1, 1951" so as to make the sentence read as follows:

(a) *Optional period.* Notwithstanding any provisions of Ceiling Price Regulation 22, you may until December 1, 1951, elect not to use Ceiling Price Regulation 22 as to any of the Commodities listed in paragraph (b) below and to continue to use as to these commodities ceiling prices determined under the General Ceiling Price Regulation.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup 2154)

Effective date. The effective date of this amendment is October 1, 1951.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

SEPTEMBER 28, 1951.

[F. R. Doc. 51-11849; Filed, Sept. 28, 1951; 10:53 a. m.]

[Ceiling Price Regulation 55, Supplementary Regulation 2]

CPR 55—CEILING PRICES FOR CERTAIN PROCESSED VEGETABLES OF THE 1951 PACK

SR 2—MODIFICATION OF RAW MATERIAL ADJUSTMENT FOR CANNED PEAS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738) this Supplementary Regulation 2 to Ceiling Price Regulation 55 is hereby issued.

STATEMENT OF CONSIDERATIONS

This Supplementary Regulation 2 to Ceiling Price Regulation 55 provides an alternate method by which certain canners of peas may figure their raw material adjustment.

Many processors of canned peas furnish their growers pea seed at a price substantially below cost or in some cases free. These processors include this net cost of peas to them as part of their raw material cost in computing their raw material adjustment under section 2 (c) of Ceiling Price Regulation 55. The pea canning industry has represented to the Office of Price Stabilization that, in certain areas during the 1948 base year, the pea yield was abnormally low in proportion to the amount of pea seed planted. Thus, the net cost of pea seed computed on a per ton basis for 1948 was substantially higher than normal. This resulted in an abnormally high 1948 raw material cost for some processors and unduly distorted the amount of their permitted raw material adjustment.

Accordingly, this supplementary regulation permits a processor who furnished pea seed to his growers at less than cost in each of the years 1948, 1950 and 1951 to adjust his weighted average raw material costs for each of such years. The processor first excludes the net cost of pea seed included in these weighted average raw material costs. Then, he adds $2.50 to his adjusted 1948 weighted average raw material cost per ton. The cost of pea seed declined from 1948 to 1951 approximately $2.50 for the quantity normally required to seed land yielding a ton of peas.

The change effected by this supplementary regulation is, basically, the re-

sult of suggestions of the industry affected. While formal consultations with representatives of the industry were not practicable, it is the judgment of the Director of Price Stabilization that this supplementary regulation reflects the views of the industry.

In the judgment of the Director, the ceiling prices established by this supplementary regulation are necessary to effectuate the purposes of the Defense Production Act of 1950, as amended.

REGULATORY PROVISIONS

Sec.
1. What this supplementary regulation does.
2. Adjustment of weighted average raw material costs for peas.

AUTHORITY: Sections 1 and 2 are issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110; E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.

SECTION 1. *What this supplementary regulation does.* This supplementary regulation modifies section 2 (c) of Ceiling Price Regulation 55, as amended (16 F. R. 7318) by permitting certain processors of canned peas to adjust their weighted average raw material cost for peas for 1948, 1950 and 1951, in making their raw material adjustment.

SEC. 2. *Adjustment of weighted average raw material costs for peas.* If in 1948, 1950 and 1951 you furnished pea seed to your growers either free or below the cost to you, you shall either compute your raw material adjustment in accordance with section 2 (c) of CPR 55 or as follows: (a) Subtract the net cost of pea seed from each of your 1948, 1950 and 1951 weighted average raw material costs per ton of peas; (b) add $2.50 to this adjusted 1948 weighted average raw material cost per ton of peas; (c) then, using these raw material cost figures for 1948, 1950 and 1951 as adjusted under (a) and (b), compute your raw material adjustment for peas in accordance with section 2 (c) of Ceiling Price Regulation 55.

"Net cost of pea seed" for any year means the difference between the amount you paid for pea seed and the lower amount, if any, you received from the growers to whom you supplied such seed divided by the total number of tons of raw material you acquired from all sources during such year.

All other provisions of Ceiling Price Regulation 55 are unaffected by this supplementary regulation.

Effective date. This Supplementary Regulation 2 to Ceiling Price Regulation 55 is effective September 28, 1951.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

SEPTEMBER 28, 1951.

[F. R. Doc. 51-11850; Filed, Sept. 28, 1951; 10:54 a. m.]

[Ceiling Price Regulation 77]

CPR 77—CEILING PRICES FOR AGRICULTURAL LIMING MATERIALS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Ceiling Price Regulation 77 is hereby issued.

STATEMENT OF CONSIDERATIONS

This regulation establishes ceiling prices for all sales of agricultural liming materials in the 48 States of the United States and in the District of Columbia, except sales of agricultural liming materials which have been imported.

Agricultural liming materials are, generally speaking, any materials that contain calcium alone or calcium and magnesium, in form and quantity sufficient to neutralize soil acidity, and which are sold for agricultural purposes. The farmers' acreage crop production increases quantitatively and qualitatively with the amount of liming materials spread on the soil, thus reducing his cost of production. The average use of liming materials on the farms of the nation is about 2½ tons per acre. The application of liming materials to the soil is considered by agronomists and soil scientists to be a fundamental agricultural practice—particularly essential at this time when the nation is engaged in the production of huge quantities of food and feed products. In the case of many soil types that are strongly acid and deficient in calcium and magnesium, fertilizers are relatively ineffective, in fact, may be wasted unless such soils are first limed. Therefore, it is vital that liming materials be produced in the largest possible quantity, and the United States Department of Agriculture has recognized this in its agricultural conservation program under which the Production and Marketing Administration shares with the farmer in defraying part of the cost of about 90 percent of agricultural liming materials.

Consultation with members of the industry and with the representatives of the United States Department of Agriculture has disclosed that although prices of agricultural liming materials in general have changed little for several years, the costs of producing, delivering and spreading these products have increased considerably. The principal expenses involved in producing agricultural liming materials are labor, power, fuel, heat, explosives, repair and maintenance, costs of transportation and bagging of the commodity. Transportation and labor are the two largest items in the expense of delivering and spreading these materials. On the other hand, administrative and selling expenses are a comparatively small part of the total cost of the commodity. Liming materials are bulky, relatively low-cost and high-tonnage materials, and, consequently, their distribution is a costly and important part of selling. Generally, liming materials are sold in bulk, but in the northeastern states, where extra-quality limestone and burned and hydrated lime is produced, most liming materials are sold in bags. Bagging constitutes, therefore, an important part of the cost of distribution in this area.

Because of increased costs and because of low operating margins, which make absorption of these increases difficult, many sellers indicated a reluctance or inability to submit bids on agricultural liming materials to the Production and Marketing Administration under ceiling prices established by the General Ceiling Price Regulation. If the program of liming this nation's soil is to continue without undue handicaps, it is essential that the producers, sellers and distributors of agricultural liming materials be given relief from the burdens of increased costs in the form of ceiling prices which allow recognition of the factors involved in their increased costs. This regulation provides such relief by allowing producers to add to their pre-Korean prices increases in their major items of cost, and by allowing resellers to compute their ceiling prices on the basis of increased costs of raw materials, transportation, handling, and spreading, plus their customary markup. In so doing, it follows substantially the pattern of the old OPA regulation, RMPR 386, governing ceiling prices of agricultural liming materials. It is believed that this will encourage the free flow of liming materials to farms under the agricultural conservation program, which is considered so vital to the nation's economy by the Production and Marketing Administration of the United States Department of Agriculture.

In the judgment of the Director of Price Stabilization the ceiling prices established by this regulation are generally fair and equitable and are necessary to effectuate the purposes of title IV of the Defense Production Act of 1950, as amended.

So far as practicable the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950, as amended. The ceiling prices established in this regulation are not below the lower of the prices prevailing just before the issuance of this regulation or the prices prevailing during the period January 25, 1951, to February 24, 1951, inclusive.

In formulating this ceiling price regulation the Director has consulted with industry representatives and has given full consideration to their recommendations.

The provisions of this ceiling price regulation and their effect upon business practices, cost practices, or means or aids to distribution in the industry have been considered. It is believed that no changes in such practices or methods have been effected. To the extent, however, that the provisions of this regulation may operate to compel changes in such practices or methods, such provisions are necessary to prevent circumvention or evasion of the regulation and to effectuate the policies of the act.

REGULATORY PROVISIONS

Sec.
1. Sales covered by this regulation.
2. Relation to other regulations.
3. How a producer computes his ceiling prices.
4. Bulk sales by producers.
5. Sales in bags by producers.
6. Producers' ceiling prices for sales at stockpiles or railroad sidings.
7. Producers' ceiling prices on a delivered or delivered and spread basis.
8. Reports.

AUTHORITY: Sections 1 to 18 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *Sales covered by this regulation.* This regulation establishes ceiling prices for all sales of agricultural liming materials in the 48 states of the United States and in the District of Columbia, except sales of agricultural liming materials which have been imported. Ceiling Price Regulation 31 is applicable to sales of imported agricultural liming materials.

SEC. 2. *Relation to other regulations.* This regulation supersedes the General Ceiling Price Regulation with respect to all sales of agricultural liming materials made in the 48 states of the United States and in the District of Columbia.

PRODUCERS' CEILING PRICES

SEC. 3. *How a producer computes his ceiling prices.* Section 4 of this regulation tells you how to compute your ceiling prices for your bulk sales, f. o. b. your plant, on the basis of certain increases in costs experienced by you in the period January 1, 1951, to June 30, 1951, as compared with these costs during the same period in 1950. Your bulk sales ceiling prices then provide the basis for determining your ceiling prices for sales in bags (section 5), from stockpiles and railroad sidings (section 6), and on a delivered or delivered and spread basis (section 7). In computing your ceiling prices for bulk sales, you must do so for each class of purchaser. You must also determine your ceiling prices for sales in bags, from stockpiles or railroad sidings, or on a deliverd or delivered and spread basis for each class of purchaser. In doing so, you use as a base your bulk sales ceiling price which is applicable to the particular class of purchaser whose ceiling price you are determining. If, however, you do not have a bulk sales ceiling price for that class of purchaser, use as your base the bulk sales ceiling price applicable to the class of purchaser most closely comparable to the class involved.

SEC. 4. *Bulk sales by producers.* If you are a producer of agricultural liming materials, the ceiling prices on your bulk sales of that commodity, f. o. b. your plant, are, at your option, either those established under the General Ceiling Price Regulation or those determined in the following manner:

(a) (1) Compute your cost-per-ton to produce agricultural liming materials during January 1, 1950, to June 30, 1950, inclusive (the base period). You do so by determining the total of the following production costs during the base period: labor costs, power, fuel, raw materials, maintenance, repair of equipment (properly allocated over the expected life of the repair), depreciation of equipment (properly allocated over the expected life of the equipment), equipment rentals, insurance, and taxes other than income and excess profits taxes. Do not include in your computations costs of bags and bagging, handling, delivery, and spreading, which are covered by sections 5, 6 and 7 of this regulation. Divide the total costs by the total number of tons of agricultural liming materials which you produced during the base period and the result is your cost-per-ton.

(2) If it is impossible for you to segregate from your records the production cost of agricultural liming materials, you may base your calculation upon the entire output of your plant of all lime or limestone materials. In case you operate more than one plant, you may make your calculation for each plant separately, or you may combine the data from all your plants into a single computation.

(b) Compute your cost-per-ton to produce agricultural liming materials in the period January 1, 1951, to June 30, 1951, inclusive. Use the same method as you used in paragraph (a) of this section.

(c) Subtract the figure you obtained under paragraph (a) of this section from the figure obtained under paragraph (b) of this section to obtain the difference in your cost-per-ton in the two periods.

(d) If the figure obtained in paragraph (c) of this section is a plus figure, add it to the highest bulk f. o. b. plant price you had in effect for deliveries to each class of purchaser and for each kind and grade during the base period January 1, 1950, to June 30, 1950, inclusive. The result is your ceiling price to each class of purchaser for sales of each kind and grade in bulk, f.o.b. your plant. If your cost-per-ton figure is a minus figure, your base period prices are your ceiling prices, unless you have chosen to use your ceiling prices which were established under the General Ceiling Price Regulation.

If, during the base period, you did not make any bulk sales to any class of purchaser, use as your base period bulk price your base period bagged price per ton, minus your costs per ton of bags and bagging in the base period.

SEC. 5. *Sales in bags by producers.* The ceiling price for sales of agricultural liming materials in bags, f. o. b. plant, by producers to a class of purchaser is your ceiling price computed under section 4 of this regulation for that class of purchaser plus the differential which you customarily charged during the base period between sales in bulk and like sales in bags. You may add to this the difference between your average cost of bags and bagging during the base period, and your current cost, or your cost on June 30, 1951, whichever is the lower.

SEC. 6. *Producers' ceiling prices for sales at stockpiles or railroad sidings.* If you are a producer and have a stockpile located at a place other than the vicinity of your plant, or if you ship from a railroad siding not in the vicinity of your plant, you, as a producer, may add to your ceiling price per ton for bulk sales (as established under section 4 of this regulation) an amount equal to the cost to you per ton of handling and transporting the material from your plant to the stockpile or railroad siding.

SEC. 7. *Producers' ceiling prices on a delivered or delivered and spread basis.* The ceiling price for sales by a producer of agricultural liming materials on a delivered, or delivered and spread basis, to any class of purchaser is your ceiling price computed under sections 4, 5, or 6 of this regulation to that class of purchaser, plus the differential which you customarily charged during the base period between such sales and like sales on a f. o. b. basis. You may add to this the difference between your current costs of delivery, or of delivery and spreading, and your average cost of these items during the base period.

SEC. 8. *Reports.* If you establish ceiling prices under sections 4, 5, 6, or 7 of this regulation, you must, within 60 days after the effective date of this regulation, submit a report to the Office of Price Stabilization, Rubber, Chemicals and Drugs Division, Washington 25, D. C., showing:

(a) Your name and address.

(b) The nature of your business.

(c) Your ceiling prices per ton for each type of sale and to each class of purchaser.

Unless and until you are notified by the Director of Price Stabilization that your proposed ceiling prices are incorrect, you may continue to sell at the prices set forth in your report.

WHOLESALERS AND RETAILERS

SEC. 9. *Sales by wholesalers or retailers.* If you do not produce agricultural liming materials, but sell at wholesale or retail, your ceiling price per ton of agricultural liming materials is the amount computed as follows:

(a) Determine your present costs-per-ton of handling and transporting of agricultural liming materials to your place of business and to the point of delivery. If you sell on a delivered and spread basis, your cost of spreading may be included in determining your ceiling prices for such sales.

(b) Add these costs to the price per ton which you pay to your supplier.

(c) Determine your average percentage markup which you received in the base period January 1, 1950, to June 30, 1950, inclusive, over your cost of materials, handling, transportation, and spreading (if you are selling on a delivered and spread basis). Add 100 to this percentage.

(d) Multiply the figure you have determined in paragraph (b) of this section by the percentage figure you have determined in paragraph (c) of this section. The result is your ceiling price.

(e) For sales in less than ton lots, your ceiling price for such sale shall be in the same proportion as the quantity sold bears to a ton. If during the January 1, 1950 to June 30, 1950 period you customarily charged a differential for such sales in addition to the proportionate amount, you may also add that differential.

GENERAL PROVISIONS

SEC. 10. *Sales by new sellers.* If you operate at a new point of production or

did not sell agricultural liming materials during the base period, or for any other reason cannot determine your ceiling price under other sections of this regulation, your ceiling price to each class of purchaser is the ceiling price for a like sale of the same or a similar kind and grade of agricultural liming materials by your most closely competitive seller. If you are a producer using portable equipment, your ceiling price at your new point of production is the lower of the following:

(a) Your established ceiling price at your nearest other point of production, or

(b) The ceiling price of your closest competitor at the new point of production who likewise uses portable equipment.

If you use a competitor's ceiling price in determining your own ceiling price, you must report to the Office of Price Stabilization, Rubber, Chemicals and Drugs Division, Washington 25, D. C., the new ceiling price which you have established and the name and address of the competitor whose ceiling price you have adopted.

SEC. 11. *Customary price differentials.* For each class of purchaser, you must maintain cash and volume discounts and other terms and conditions of sale, at least as favorable as those which you had in effect during the period January 1, 1950, to June 30, 1950.

SEC. 12. *Records which you must keep*—(a) *Base period records.* If you are a producer, your base period records are those which support the costs items and production claimed by you in computing your ceiling prices under section 4 of this regulation. If you are not a producer, and sell agricultural liming materials at wholesale or retail, your base period records are those which support your claim of a percentage markup under section 9 (c) of this regulation. These base period records must be preserved by you and kept available for examination by the Director of Price Stabilization for the life of the Defense Production Act of 1950, as amended, and for two years thereafter.

(b) *Current records.* You must also keep, for a period of not less than two years, the following records:

(1) Records of costs supporting your computations of ceiling prices under any other section of this regulation.

(2) Records of any sale of one ton or more, showing the date of such sale, the name and address of the buyer, the quantity and type of agricultural liming materials sold, and the price received for the sale.

(3) If you buy agricultural liming materials for resale, record of each purchase, showing the date of purchase, the name and address of your supplier, amount purchased, and price paid.

SEC. 13. *Prohibitions.* (a) After the effective date of this regulation, regardless of any contract or other obligation, you shall not sell any agricultural liming materials at a price higher than the ceiling price established by or under this regulation, and you shall not buy in the course of trade or business any agricultural liming materials at a price higher than the ceiling price established by or under this regulation.

(b) You shall not agree, offer, solicit or attempt to do any of the foregoing.

SEC. 14. *Evasion.* Any practice which results in obtaining indirectly a higher price than is permitted by this regulation is a violation of this regulation. Such practices include, but are not limited to, devices making use of commissions, transportation arrangements, premiums, discounts, special privileges, tie-in agreements and trade understandings.

SEC. 15. *Charges lower than ceiling prices.* Lower prices than the ceiling prices established under this regulation may be charged, demanded, paid or offered.

SEC. 16. *Adjustable pricing.* Nothing in this regulation prohibits you from making a contract or from offering to sell agricultural liming materials at:

(a) The ceiling price in effect at the time of delivery, or

(b) A fixed price, or the ceiling price at the time of delivery, whichever is lower.

You may not, however, unless authorized by the Director of Price Stabilization, deliver or agree to deliver agricultural liming materials at a price to be adjusted upward in accordance with any increase in a ceiling price after delivery.

SEC. 17. *Penalties.* Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided for by the Defense Production Act of 1950, as amended.

SEC. 18. *Definitions.* When used in this regulation, the term:

(a) "Agricultural liming materials" means all of the various kinds and grades of materials containing calcium or calcium and magnesium compounds when sold for spraying or dusting purposes or for use as soil amendments or conditioners including, but not limited to, ground or pulverized limestone, limestone screenings and meal, burned lime, hydrated lime, air-slaked lime, burned or ground mollusk shells, calcareous and dolomitic fertilizer fillers, marl, slag and by-product liming materials such as sugar house lime and acetylene lime waste.

(b) "Base period" means the period January 1, 1950, to June 30, 1950, inclusive.

(c) "Class of purchaser" refers to the practice adopted by a seller in setting different prices for sales to different purchasers or kinds of purchasers (for example, manufacturer, wholesaler, retailer, government agency, public institutions or individual consumer), or for purchasers located in different areas or for purchasers of different quantities or grades or under different terms or conditions of sale or delivery.

(d) "f. o. b. plant" means loaded on railroad freight car, truck, barge, boat or other conveyance at the point of production.

(e) "Producer" means any person who mines, quarries, crushes, grinds or pulverizes, burns, hydrates, digs or excavates, or in any manner processes material containing calcium or calcium and magnesium and offers such for sale as an agricultural liming material.

(f) "You" means any seller of agricultural liming materials subject to the particular section in which the term is used and, in sections 11–17 inclusive it means any seller of agricultural liming materials whose sales are subject to this regulation.

Effective date. This regulation shall be effective October 1, 1951.

NOTE: The record keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

EDWARD F. PHELPS, Jr.
Acting Director of Price Stabilization.

SEPTEMBER 28, 1951.

[F. R. Doc. 51–11852; Filed, Sept. 28, 1951; 10:54 a. m.]

[General Ceiling Price Regulation, Amdt. 1 to Supplementary Regulation 51]

GCPR, SR 51—ADJUSTABLE PRICING FOR SALES OF CERTAIN CANNED AND FROZEN BERRIES, FRUITS AND VEGETABLES, THEIR JUICES, AND CANNED SOUPS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization General Order No. 2 (16 F. R. 738), this Amendment 1 to Supplementary Regulation 51 to the General Ceiling Price Regulation (16 F. R. 808) is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment to Supplementary Regulation 51 amends the automatic revocation date of the adjustable pricing provision of the regulation to provide that the regulation shall be automatically revoked on the effective date of a specific regulation or amendment to cover the particular product rather than on the issuance date of such regulation or amendment as provided in the original regulation.

In issuing regulations or amendments establishing ceiling prices for processed fruits and vegetables, the Director of Price Stabilization generally establishes an effective date 5 or 10 days after the issuance date. This procedure allows the industry a reasonable time to compute its ceiling prices under the regulation and to continue to sell at GCPR ceiling prices during this period.

The purpose of issuance of SR 51 was to permit processors to continue to distribute their products pending the establishing of ceilings by tailored regulations or amendments covering particular products, subject to agreement with buyers to adjust the price after delivery. If the authority to sell on an adjustable pricing provision is terminated on the issuance date of a regulation or amendment, many processors who have been selling pursuant to the adjustable pricing provisions of SR 51 will be forced to return to their GCPR ceiling prices, or to discontinue making any sales until they can figure their ceiling prices under the applicable regulations or amendments. Since such action would be con-

trary to the purposes for which SR 51 was issued, this amendment is being issued to permit sales of all products covered by SR 51 to continue to be made until the effective date of any regulation or amendment establishing ceiling prices for the product.

In issuing SR 51, the Director of Price Stabilization consulted with representatives of the industries affected by such regulation, and the accompanying amendment gives consideration to their recommendations.

AMENDATORY PROVISIONS

Section 3 is amended by changing the word "issuance" to "effective" so that the section will read as follows:

SEC. 3. *Automatic revocation.* This regulation shall be automatically revoked with respect to a particular product described in section 1 of this supplementary regulation on the effective date of a specific regulation or amendment of a ceiling price regulation to cover the particular product."

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment is effective September 28, 1951.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

SEPTEMBER 28, 1951.

[F. R. Doc. 51-11848; Filed, Sept. 28, 1951; 10:53 a. m.]

[Ceiling Price Regulation 75]

CPR 75—CEILING PRICES FOR CERTAIN PROCESSED SOUPS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization General Order No. 2 (16 F. R. 738), this Ceiling Price Regulation 75 is issued.

STATEMENT OF CONSIDERATIONS

This regulation establishes methods for determining ceiling prices for sales by processors of canned and frozen soups. The regulation covers all kinds of soups, both seasonal, such as tomato and asparagus, and non-seasonal, such as chicken and consomme. However, dried soup, dried soup mixes and soup sold as "baby" or "junior" soups are not covered by the regulation.

Pricing methods. The major pricing method of the regulation is similar in most respects to the formulas used in the processed fruits and berries and processed vegetables regulations.

To determine a ceiling price for an item each processor calculates his weighted average sales price, called the "base price", for each item sold during the "base period"—July 1, 1949 to August 31, 1949. He then increases his base price by a factor named in the regulation, which covers cost increases for cans, cases, labels and direct labor. Separate factors are named for different price line groups and for different can sizes. The processor then adjusts the resulting figure for changes in "ingredient" cost other than raw vegetable cost occurring between 1949 and 1951. Finally, the processor figures the "raw vegetable" adjustment. This is accomplished by figuring the difference between his 1949 and 1950 weighted average raw vegetable costs and combining this difference with the difference between his 1950 and 1951 weighted average raw vegetable costs. The latter difference, however, may not exceed the permitted raw vegetable cost listed in the regulation. The processor's f. o. b. factory ceiling price is thus his base price adjusted for changes in costs since the base period of packaging materials, direct labor, ingredients and raw vegetables.

The 1949 base period was selected as being the most recent pre-Korean period considered to be representative of normal competitive conditions in the soup industry.

The cost increases covered by the factors named in the regulation are consistent with those allowed under CPR 42, 55 and 56. The factors cover cost increases since the 1949 base in packaging materials and direct labor. The factors were derived from data submitted by members of the industry covering a very large proportion of the soup pack.

Ingredients other than raw vegetables are an important part of the cost of many of the soups, and such costs have advanced substantially since the 1949 base period. Because of the many differences in recipes used in the manufacture of soup, it is not feasible to provide a factor to cover such cost increases. Accordingly, each processor computes his own adjustment for ingredient cost changes by figuring the difference in weighted average costs for each ingredient between the years 1949 and 1951 up to the time of calculating his ceiling price.

As in CPR 42 and CPR 55, this regulation allows each processor to figure his own raw vegetable cost adjustments, either upward or downward since 1949, with the limitation that the increase between 1950 and 1951 may not exceed the maximum limits fixed in Table II. These maximum limits permit increases up to, but not in excess of, the legal minima prices, as determined by the Secretary of Agriculture for vegetables for which he fixes legal minima. For vegetables for which the Secretary makes no determination, a maximum increase of 20 per cent is allowed.

Line pricing. To meet the particular needs of the soup industry the regulation provides a pricing method for figuring ceiling prices on a "uniform price line" basis. This industry has customarily sold most of its production by price lines. A price line is a group of different items each of which is sold at the same price, regardless of variations in production costs of the individual items. Under the regulation, the processor is first required to calculate his ceiling price for each individual item of soup. He then determines his uniform price line ceiling price by averaging the ceiling prices of all items he wishes to include in the particular price line, using his 1950 sales of each item as the weighting factors. The processor is required to recalculate his uniform price line ceiling prices six months after the first calculation and every six months thereafter.

Other pricing methods. The soup processing industry again presents the problem which was encountered under the canned fruit and vegetable regulations of finding a suitable pricing method for processors who also perform the distributive functions of selling at wholesale or at retail. The regulation employs a formula whereby the processor who is also a wholesaler or a retailer figures his weighted average sales price during the base period as a wholesaler or as a retailer, as the case may be, and then divides this weighted average price by the appropriate wholesale or retail markup named in CPR 14 or CPR 15. He then deducts total transportation costs, which results in a price comparable to f. o. b. factory base prices of other soup processors who sell only to wholesalers. He then computes his f. o. b. factory price under the main pricing method or under the price line provisions. The price so computed is then used by the processor as equivalent to the amount he paid his supplier in computing his ceiling prices for sales at wholesale under CPR 14 or at retail under CPR 15.

Although frozen soups were not generally produced during the base period, they are included in this regulation. Processors of such frozen soups cannot use the general pricing provisions of sections 2, 3, 4, or 5, but must apply for individual authorization of ceiling prices under section 6.

Effect of price level. The level of ceiling prices resulting under this regulation will be approximately 10 percent higher than prices in effect immediately preceding the date of issuance of this regulation. The regulation accordingly meets the requirements of the anti-rollback provisions of section 402 (d) (4) of the Defense Production Act of 1950, as amended by the Defense Production Act Amendments of 1951. The major portion of the increase allowed under this regulation is the result of substantial increases in cost of ingredients and raw vegetables, while the other increases allowed are the result of packaging materials and direct labor cost increases. The increases in the level of ceiling prices is somewhat greater than those encountered in other processed vegetable and fruit regulations issued by the Office of Price Stabilization due primarily to the fact that the soup industry did not increase its selling prices after the President's request for voluntary action on the part of industry to hold the line on price increases. General Ceiling Price Regulation ceiling prices accordingly do not reflect any of the cost increases which have occurred since that time, some of which could have been reflected in ceiling prices under the parity pass-through provisions of section 11, of the General Ceiling Price Regulation.

Conclusion. In formulating this regulation the Director of Price Stabilization has consulted with industry representatives and has given full consideration to their recommendations. The Director finds that any changes in business practices, cost practices, or methods under this regulation are necessary to prevent circumvention or evasion of the ceiling

price regulation. In his judgment the provisions of this regulation are generally fair and equitable and are necessary to effectuate the purposes of the Defense Production Act of 1950, as amended by the Defense Production Act Amendments of 1951.

Insofar as practicable the Director of Price Stabilization has given due consideration to the national effort to achieve maximum production in furtherance of the purpose of the Act, as amended, to prices prevailing during the periods May 24, 1950, to June 24, 1950, January 25, 1951, to February 24, 1951, and to current selling prices and to other relevant factors of general applicability.

REGULATORY PROVISIONS

Sec.

AUTHORITY: Sections 1 to 24 issued under Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *Coverage of this regulation*—(a) *What products and sellers are covered.* This regulation establishes methods for calculating ceiling prices for sales by processors of canned and frozen soups. This regulation does not apply to soups which are sold as "baby food" or as "junior food" or to dried soups or dried soup mixes.

(b) *Pricing provisions to be used.* The main pricing method for most processors of soup is found in section 2 of this regulation. Section 3 of this regulation sets forth the method of computing your ceiling prices for items you did not sell during the base period. If you sell the soup you manufacture on a uniform price line basis, your ceiling prices are determined under sections 2 and 4. If you are a "processor-wholesaler" or a "processor-retailer" you determine your ceiling prices under section 5. Section 6 establishes methods by which processors, such as new processors, who cannot compute their ceiling prices under the other provisions of the regulation, may obtain their ceiling prices. In general, section 24 of this regulation contains the definitions of terms used in this regulation. However, where a term is used only once it will be defined in the section in which it is used.

(c) *Where this regulation applies.* This regulation applies in the 48 states of the United States and the District of Columbia.

(d) *What this regulation supersedes.* For the products and sellers covered, this regulation supersedes the General Ceiling Price Regulation (16 F. R. 808).

SEC. 2. *Ceiling prices f. o. b. factory for sales by processors of items of soup sold during the base period.* To calculate your ceiling price you first determine your "base price" for each item sold during the "base period" from each factory. The "base period" in general is July 1, 1949, to August 31, 1949, inclusive. Next, you adjust your base price for cost increases other than "ingredients" and raw material costs. Thereafter you adjust for differences in ingredient cost, and finally, you adjust for raw vegetable cost differences.

If you make any changes in your formula or recipe after calculating your ceiling price you shall determine, in accordance with paragraph (i) of this section, whether the change in formula will necessitate a recalculation of your ceiling price.

(a) *How to determine your base price.* Your base price for each item is your "weighted average sales price" per dozen containers, f. o. b. factory, for each item sold during the base period. "Weighted average sales price" is the total gross sales dollars charged f. o. b. factory for the item during the base period divided by the number of dozens of containers of that item sold.

(1) *What sales and sales contracts you include in your "weighted average sales price".* All sales and confirmed sales contracts at firm prices of each item you made in the regular course of business during the base period shall be included regardless of the date of delivery. Sales contracts made at times other than during the base period shall not be included, even though delivery was made during the base period. However, the following sales and sales contracts shall be excluded, even though made during the base period: Sales at retail (including sales to growers and employees) and sales at wholesale, sales to government agencies, institutional and commercial users, state agencies and political subdivisions thereof; and sales of damaged goods or of goods packed for experimental purposes.

(2) *Separate base prices.* You shall determine a separate base price for each item. However, if during the base period, you sold any items covered by this regulation on a uniform price line basis the weighted average sales price per dozen containers f. o. b. factory for the uniform price line is your base price for each item which is a component of the price line.

(3) *Base price for factory group.* In determining your base price, you may determine one base price for any group of factories, all of which are located in the "same pricing area". In figuring a single base price for a group of factories, you shall include all of the sales specified in subparagraph (1) of this paragraph within the base period for each factory in the group to obtain your weighted average sales price. "Same pricing area" means that each factory must be located in the same area for raw vegetable permitted increases as provided in Table II of this section.

(b) *How to adjust for permitted increases other than ingredients and raw vegetables.* After you have determined your base price for an item, you shall multiply it by the appropriate figure set forth in Table I of this section.

TABLE I.—PERMITTED INCREASES OTHER THAN INGREDIENTS AND RAW VEGETABLES

Classes of soup	No. 3 cylinder or larger cans	Other sizes
Condensed soups:		
Meat, fish, poultry, and mushroom	1.022	1.025
Tomato	1.027	1.040
All other vegetable soups and oxtail	1.025	1.030
All ready-to-serve soups	1.038	1.038

Meat, Fish, Poultry, and Mushroom Soup as used in Table I describes and includes soup the characteristic component of which is meat, meat stock, fish, seafood, poultry or mushroom, e. g., clam chowder, chicken noodle, chicken gumbo, consomme or vegetable-beef.

Vegetable Soups as used in Table I describes and includes soup the characteristic component of which is a vegetable or a combination of vegetables, e. g., asparagus, pea, or vegetable soup. This class excludes Tomato Soup but includes Oxtail which kind has historically been included in the vegetable price group and therefore is here considered in that group.

Tomato Soup as used in Table I describes and includes soup the characteristic component of which is tomatoes.

"Ready to serve soup" means soup to which no liquid need be added.

"Condensed soups" means soups the normal preparation of which for serving requires the addition of water or milk.

The result is your "adjusted base price."

(c) *How to determine your "ingredient" cost adjustment.* Next, you shall determine your "ingredient" adjustment in the following manner. "Ingredient" means any food material, other than raw vegetables, used in the processing of soup and includes processed vegetables (e. g. frozen, brined, dried, etc.), meats, poultry, fish, or seafood, stocks of meats, poultry, fish or seafood, grains (e. g. rice, barley, etc.), condiments, and wines.

(1) Determine the difference per dozen containers between your 1949 weighted average cost and your 1951 weighted average cost up to the time of calculating your ceiling price for each ingredient used in processing the item. "Weighted average cost" means the total amount paid or contracted to be paid at firm prices by the processor to his supplier for each ingredient plus any transportation, storage, or other direct cost paid or incurred by the processor up to the point of delivery at his fac-

tory, divided by the total number of units of the ingredient purchased.

In making this determination you shall preserve a record of your calculations for each ingredient you use in the item of soup for which you are calculating a ceiling price. The ingredient cost shall be figured at no more than your supplier's ceiling price or current selling price delivered to your plant, whichever is the lower of the two figures.

(2) Having determined the difference for each ingredient, you shall then determine the aggregate difference in weighted average cost of all ingredients used in processing the item.

(3) If the aggregate of your ingredient cost for 1951 exceeds the aggregate of your 1949 ingredient cost you shall add the increase determined under subparagraph (2) of this paragraph to your adjusted base price. If the aggregate of your ingredient cost for 1949 exceeds the aggregate of your 1951 ingredient cost you shall subtract the decrease determined under subparagraph (2) of this paragraph from your adjusted base price. The result is your "adjusted base price including the ingredient cost adjustment".

(d) *How to figure the raw vegetable adjustment.* Then, you shall determine the raw vegetable adjustment by the following procedure. If any of the vegetables used by you in processing soup are purchased in a processed form rather than as raw vegetables you shall determine their costs under paragraph (c) of this section.

(1) Determine the difference between your 1949 and 1950 "weighted average raw vegetable cost" per ton (or other unit of purchase). "Weighted average raw vegetable cost" means the total amount paid or contracted to be paid at firm prices by the processor to his supplier or grower for the raw vegetables plus any transportation, storage, harvesting, seeds and plants, crates, boxes, bags, acquisition, and other direct costs, paid or incurred by the processor up to the point of delivery at the factory, divided by the total tons (or other unit of purchase) of the raw vegetable purchased.

(2) You then determine the difference between your 1950 and, up to the date of the computation of your ceiling price, your 1951 weighted average raw vegetable cost per ton (or other unit of purchase). However, if the amount by which your 1951 raw vegetable cost exceeds your 1950 weighted average raw vegetable cost per ton (or other unit of purchase) is greater than the appropriate maximum permitted raw vegetable increase for the area in which your factory is located, both in terms of dollars-and-cents and in terms of percentage of your 1950 weighted average raw vegetable cost, as provided in Table II, then in the following computation use either of the increases provided in Table II instead of your actual increase. In the case of asparagus no increase in raw vegetable cost from 1950 to 1951 is allowed. Any decrease in your raw vegetable cost for asparagus between these years shall be used in the following computation.

TABLE II—MAXIMUM PERMITTED INCREASE IN RAW VEGETABLE COST FROM 1950 TO 1951

Raw material	Area	Maximum permitted increase in—	
		Dollars per ton	Percentage of 1950 weighted average raw material cost
Asparagus	All areas	[1]	[1]
Beets	New York, New Jersey, Pennsylvania	7.70	37
	Colorado, Michigan, Wisconsin, Minnesota, Iowa, Illinois, Indiana, Ohio.	2.90	15
	Oregon, Washington, Idaho, Utah	4.70	21
	All other States	4.10	21
Green peas, fresh (shelled basis).	New England States, New York, New Jersey, Pennsylvania, other than southeastern (Franklin, Cumberland, Adams, York, Dauphin, Lebanon, Lancaster, Berks, Chester, and Delaware Counties).	16.10	18
	Southeastern Pennsylvania, counties in Maryland west of Chesapeake Bay and Susquehanna River, West Virginia.	20.70	25
	Delaware, counties in Maryland east of Chesapeake Bay and the Susquehanna River, Virginia.	19.10	25
	Ohio, Indiana, Michigan	19.60	26
	Wisconsin	19.10	23
	Iowa	14.40	16
	Minnesota	22.40	26
	Illinois	21.00	23
	Colorado	20.90	30
	California	16.90	22
	Utah, southeastern Idaho (Lemhi, Butte, Blaine, Cassia Counties and all counties east thereof).	25.40	35
	Idaho, other than southeastern, eastern Washington (all counties east of but not including Okanogan, Chelan, Kittitas, Yakima, and Klickitat Counties), eastern Oregon (Wasco, Jefferson, Deschutes, and Lake Counties and all counties east thereof).	24.60	33
	Western Washington, Western Oregon	25.00	29
	All other States	18.30	22
Lima beans, fresh (shelled basis).	New York, New Jersey	29.00	20
	Pennsylvania	27.00	21
	Delaware, Maryland, Virginia	20.00	15
	Arkansas, Missouri, Oklahoma, Tennessee	19.00	14
	Wisconsin, Minnesota, Illinois	23.00	18
	Michigan, Indiana	15.00	12
	Ohio, Iowa	13.00	13
	Washington, Oregon, Idaho	27.00	18
	California	22.00	16
	All other States	22.00	16
Snap beans	New England States	31.50	40
	New York	15.00	13
	New Jersey, Pennsylvania, counties in Maryland west of Chesapeake Bay and Susquehanna River.	20.70	21
	Counties in Maryland east of Chesapeake Bay and Susquehanna River, Delaware, Virginia, except southwestern (Craig, Roanoke, Franklin, and Henry Counties and all counties west thereof), eastern North Carolina (Rockingham, Guilford, Randolph, Montgomery, and Richmond Counties and all counties west thereof).	16.00	18
	Florida	29.00	29
	South Carolina, Georgia, other than north (Fannin, Union, Towns, Rabun, Lumpkin, White, and Habersham Counties), Alabama, Mississippi, Louisiana	27.40	34
	Arkansas, Oklahoma, Missouri, Tennessee, other than eastern (Marion, Grundy, Warren, DeKalb, Putnam, Overton, and Clay Counties and all counties east thereof)	13.40	15
	Eastern Tennessee, western North Carolina, southwestern Virginia, north Georgia	30.00	28
	Texas	13.00	16
	Wisconsin, Michigan, Ohio, Indiana, Illinois, Iowa, Minnesota	16.00	14
	Colorado, Utah, New Mexico, Idaho	26.70	31
	Washington, Oregon	29.00	27
	California	23.00	23
	All other States	14.00	14
Sweet corn (unhusked basis).	Maine, New Hampshire	10.40	54
	Vermont	7.20	38
	New York	4.30	21
	Pennsylvania, other than southeastern (Franklin, Cumberland, Adams, York, Dauphin, Lebanon, Berks, Chester, and Delaware Counties).	6.40	29
	Southeastern Pennsylvania, counties in Maryland west of Chesapeake Bay and Susquehanna River, Delaware, Virginia.	6.40	36
	Counties in Maryland east of Chesapeake Bay and Susquehanna River.	6.40	41
	Indiana, Illinois, Iowa	5.90	34
	Michigan, Wisconsin, Minnesota, Ohio	6.00	38
	Nebraska	5.90	42
	Washington, Idaho, Utah	5.90	32
	Oregon	6.00	20
	All other States	4.80	21
Tomatoes	New England States, New York, northern Pennsylvania (Erie, Crawford, Mercer, Venango, Forest, Warren, McKean, Potter, Tioga, Bradford, Wayne, and Susquehanna Counties).	8.60	35
	Pennsylvania other than northern, counties in Maryland west of Chesapeake Bay and Susquehanna River.	6.40	22
	New Jersey, Delaware, counties in Maryland east of Chesapeake Bay and Susquehanna River, and Accomack and Northampton Counties in Virginia.	6.70	22
	Virginia, other than Accomack and Northampton Counties	5.20	17
	North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana.	10.30	46
	Kentucky, Tennessee, Arkansas, Missouri, Oklahoma	4.20	15
	Ohio, Indiana, Michigan, Wisconsin, Illinois, Iowa	7.60	34
	Texas	15.20	101
	Colorado, Utah, New Mexico, Arizona, Kansas, Nebraska	8.20	40
	California	8.20	36
	All other States	5.70	23
All other vegetables	All States		20

[1] No increase.

(3) Having determined the difference between your 1949 and your 1950 raw vegetable cost and the difference between your 1950 and 1951 raw vegetable cost, you then combine these differences to determine the raw vegetable cost adjustment per ton (or other unit of purchase) for the period 1949 to 1951 as follows:

(i) If your weighted average raw vegetable cost per ton for 1950 exceeds that of 1949 as determined under subparagraph (1) of this paragraph you shall treat the increase as a plus figure.

(ii) If your weighted average raw vegetable cost per ton for 1951 exceeds that of 1950 as determined under subparagraph (2) of this paragraph you shall treat the increase as a plus figure.

(iii) If your weighted average raw vegetable cost per ton for 1949 exceeds that of 1950 as determined under subparagraph (1) of this paragraph you shall treat the decrease as a minus figure.

(iv) If your weighted average raw vegetable cost per ton for 1950 exceeds that of 1951 as determined under subparagraph (2) of this paragraph you shall treat the decrease as a minus figure.

You then combine the 1949–1950 and 1950–1951 differences. The result is your upward or downward raw material adjustment per ton.

Example 1

(a) Your 1950 weighted average raw vegetable cost per ton is	$30.00	
Your 1949 weighted average raw vegetable cost per ton is	25.00	
The difference		+$5.00
(b) Your 1951 weighted average raw vegetable cost per ton is	$35.00	
Your 1950 weighted average raw vegetable cost per ton is	30.00	
The difference		+5.00
The maximum permitted increase for 1951 over 1950 is $5.00; therefore, combining (a) and (b) the aggregate raw material adjustment 1949 to 1951 is		+10.00

Example 2

(a) Your 1950 weighted average raw vegetable cost per ton is	$30.00	
Your 1949 weighted average raw vegetable cost per ton is	32.00	
The difference		−2.00
(b) Your 1951 weighted average raw vegetable cost per ton is	$35.00	
Your 1950 weighted average raw vegetable cost per ton is	30.00	
The difference		+5.00
The maximum permitted increase for 1951 over 1950 is $5.00; therefore, combining (a) and (b) the aggregate raw vegetable adjustment 1949 to 1951 is		+3.00

Example 3

(a) Your 1950 weighted average raw vegetable cost per ton is	$30.00	
Your 1949 weighted average raw vegetable cost per ton is	25.00	
The difference		+$5.00
(b) Your 1951 weighted average raw vegetable cost per ton is	$37.50	
Your 1950 weighted average raw vegetable cost per ton is	30.00	
The difference		+7.50
The maximum permitted increase for 1951 over 1950 is $5.00; therefore, you may use only $5.00 as your maximum permitted increase		+5.00
Therefore combining (a) and (b) the aggregate raw vegetable adjustment 1949 to 1951 is		+10.00

Example 4

(a) Your 1950 weighted average raw vegetable cost per ton is	$30.00	
Your 1949 weighted average raw vegetable cost per ton is	37.50	
The difference		−7.50
(b) Your 1951 weighted average raw vegetable cost per ton is	$37.50	
Your 1950 weighted average raw vegetable cost per ton is	30.00	
The difference		+7.50
The maximum permitted increase for 1951 over 1950 is $5.00; therefore, you may use only $5.00 as your permitted increase		+5.00
Therefore, combining (a) and (b) the aggregate raw vegetable adjustment 1949 to 1951 is		−2.50

(4) You then divide your weighted average raw vegetable cost adjustment per ton (or other unit of purchase) plus or minus, by the simple average of your yield per ton (or other unit of purchase) for the years 1949 and 1950 reduced to dozens of containers.

The result of the computations in this paragraph is your "upward" or "downward" adjustment for raw vegetable cost per dozen containers.

(e) *Your ceiling price.* (1) If the final result of your calculations for raw vegetable cost adjustment in paragraph (d) of this section is an upward adjustment you shall add such amount to your "adjusted base price including the ingredient cost adjustment," as determined under paragraph (c) of this section.

(2) If the final result of your calculations for raw vegetable cost adjustments in paragraph (d) of this section is a downward adjustment you shall subtract such amount from your "adjusted base price including the ingredient cost adjustment," as determined under paragraph (c) of this section.

The result is your ceiling price per dozen of containers f. o. b. factory for the item you are pricing.

(f) *Special pricing provisions for soups containing a mixture of vegetables.* If you process an item which contains two or more of the vegetables listed in Table II you shall figure your ceiling price as follows:

(1) Multiply your base price as figured under paragraph (a) of this section, by the appropriate figure named in Table 1 in paragraph (b) of this section for the kind of soup you are pricing.

(2) Then figure the ingredient cost adjustment and adjusted base price including the ingredient cost adjustment in accordance with paragraph (c) of this section.

(3) You then figure your raw vegetable adjustment per ton (or other unit of purchase) in accordance with paragraph (d) of this section for each kind of raw vegetable used in processing the item.

(4) Then convert the raw vegetable cost adjustment of each vegetable per ton (or other unit of purchase) to a per dozen containers of the item basis.

(5) Then multiply each adjustment figure you have obtained under subparagraph (4) of this paragraph by the proportion the raw vegetable for which you are making the adjustment bears by weight to the total amount of raw vegetables in the item. Combine the results of these computations.

The result is your upward or downward adjustment for raw vegetable cost per dozen containers.

(6) If the final result of your raw vegetable cost adjustment is an upward adjustment you shall add such amount to the figure obtained in subparagraph (2) of this paragraph, and if it is a downward adjustment you shall subtract such amount from the figure obtained in subparagraph (2) of this paragraph. The result is your ceiling price per dozen containers f. o. b. factory for the items you are pricing.

(g) *Recalculation.* When your 1951, or any subsequent pack of a seasonal soup has reached an amount equal to 20 percent of your 1950 pack of the same kind of soup, and again at the termination of each such pack, you shall recompute your cost of ingredients and raw vegetables per dozen containers. If the change in such costs results in a decrease of 5 percent or more from the costs determined in your last calculation, you shall immediately recalculate your ceiling prices for all items of that kind of soup. In the case of non-seasonal soups, you shall recompute your cost of ingredients and raw vegetables per dozen containers for each such kind of soup every six months after the date of your last calculation. If the change in costs results in a decrease of 5 percent or more from the costs determined in your last calculation, you shall recalculate your ceiling price for all items of that kind of soup immediately. In recomputing your cost of ingredients and raw vegetables, you shall base your computations on the weighted average cost of all ingredients and raw vegetables used in processing the item up to the time when you made the recomputation. You may but you are not required to recalculate your ceiling price if the change in cost is an increase.

(h) *When a recipe change since the base period requires changing your base price.* If prior to first calculating your ceiling prices under this regulation, you have changed the recipe for a soup sold during the base period so that the ingredient and raw vegetable cost of the new recipe soup, using base period costs, would have been more or less than the cost of old recipe soup by 5 percent or more, you shall adjust the base period price of items of this soup by the actual dollar and cents difference in base period costs. Thereafter, you shall use these changed base prices as your "base prices" for items of this soup and calculate your ceiling prices under sections 2, 4, or 5.

(1) *When a recipe change requires recalculation of ceiling price.* If you make a recipe change after once having calculated a ceiling price for an item, you shall determine whether recalculation of your ceiling price is necessary in the following manner:

(i) You shall determine and compare your ingredient and raw vegetable costs for both the new and the old recipe soups based on prices in effect at the time of last calculating your ceiling price.

(ii) If the ingredient and raw vegetable cost of the new recipe soup is 5 percent less than the cost of the old recipe soup, you shall immediately recalculate your ceiling prices for all the items of this kind of soup. If the cost of the new recipe soup is 5 percent more than the old recipe soup cost, you may but you are not required to recalculate your ceiling price.

SEC. 3. *Ceiling prices for items not sold during the base period.* This section provides a method for pricing an item which you did not sell during the base period, either because you did not sell that particular kind of soup in the same container type or size, or because it is an entirely "new item". "New item" means an item that is an entirely different kind of soup from any soup previously produced by you.

(a) *Select a "comparable item".* If you did not sell an item during the base period but did sell an item of the same kind of soup which differs only in container type or size from the item being priced and for which you can figure a ceiling price under section 2 of this regulation, you shall use the item for which you can figure a ceiling under section 2 as the "comparable item" in pricing under this section. If you did not sell the same kind of soup during the base period, you shall select as a "comparable item", an item of soup sold during the base period, the direct cost per dozen containers of which is closest to the direct cost per dozen containers of the item being priced.

(b) *Figure the direct cost.* You shall then determine the current "direct cost" per dozen containers of the item being priced and the current direct cost per dozen containers of the comparable item. "Direct cost" means the cost of all ingredients, raw vegetables, packing materials and direct labor.

(c) *Figure the markup.* You shall then divide the current direct cost per dozen containers of the comparable item into its ceiling price as determined under section 2. The result is your markup per dozen containers.

(d) *Ceiling price for new items.* You then multiply the direct cost per dozen containers of the item being priced by the markup derived in paragraph (c) of this section. The resulting figure is your ceiling price per dozen containers f. o. b. factory for the item being priced.

(e) *Recalculation.* You shall recalculate your ceiling for each item under this section whenever you are required, by the terms of this regulation, to recalculate the ceiling price of the comparable item.

SEC. 4. *Ceiling prices figured by uniform price line method.* You may establish uniform price lines f. o. b. factory for any factory or group of factories to include any items for which you have determined ceiling prices under other provisions of this regulation.

(a) *Determining the ceiling price for a uniform price line.* (1) You shall first determine the individual items which you intend to include in each uniform price line you are pricing.

(2) Next, you shall multiply the f. o. b. factory ceiling prices as determined under this regulation of the individual items to be included in the line by the number of dozens of such items sold during the calendar year 1950 (or the twelve accounting months used by your company which most closely comprise the calendar year 1950).

(3) Then you shall add the amounts of the computations you have made in subparagraph (2) of this paragraph. The total is your "ceiling price value" for all of the soups you have included in the line.

(4) Finally, you shall divide the "ceiling price value", determined under subparagraph (3) of this paragraph, by the number of dozens of all items included in the price line sold during the year 1950.

EXAMPLE

Item	Number of dozens sold in 1950	Ceiling price computed under sec. 2	Ceiling price value
11-ounce cans vegetable soup	110,000	$1.30	$143,000
11-ounce cans pea soup	90,000	1.25	112,500
11-ounce cans asparagus soup	100,000	1.35	135,000
Total	300,000		390,500

$390,500÷300,000=1.3016. Therefore $1.30 is your ceiling price per dozen containers for the line.

The result of the above calculations is your ceiling price per dozen containers for the uniform price line.

(b) *Recalculation of the uniform price line ceiling price.* (1) If a change in ceiling price resulting from the recalculation of a new ceiling as required in section 2 or section 3 of this regulation would result in a decrease of 5 percent or more in the ceiling price of any item included in the uniform price line, you shall then immediately recalculate your ceiling price for your uniform price line in accordance with paragraph (a) of this section.

You are not required to recalculate your ceiling price for the uniform price line if the change is an increase.

(2) In addition to any recalculation required under subparagraph (1) of this paragraph, after the effective date of this regulation and for so long as it is in effect, you shall recalculate your uniform price line ceiling price 6 months after the date of the last calculation and every 6 months thereafter. In making a recalculation of your ceiling price for a uniform price line you shall, during the calendar year 1951, use the sales figures used in paragraph (a) of this section and, after January 1, 1952, you shall use the sales figures for the 1-year period immediately preceding the date of recalculation or the twelve accounting months used by your company which most closely comprise this 1-year period.

(c) *Pricing new item not previously included in the price line.* If you wish to add a new item of soup to any uniform price line, you may include the new item in the price line, the ceiling price of which is nearest that of the new item.

(d) *Notice of addition of a new kind of soup to a price line.* If you wish to add a new item for which you have determined a ceiling price under this regulation to an established uniform price line, you shall first notify the Fruit and Vegetable Branch, Office of Price Stabilization, Washington 25, D. C., of the item to be included in the price line and the price line to which it will be added. Upon mailing this notice, you may sell the item at the uniform price line ceiling of that price line.

(e) *Maintenance of uniform price line.* If you elect to figure your ceiling prices under this section, you shall continue to figure your ceiling prices under this section for so long as this regulation remains in force and effect. However, you may shift an item from one price line to another or drop an item completely provided you recalculate your ceiling price at that time for the uniform price lines affected.

SEC. 5. *Ceiling prices for processor-wholesalers and for processor-retailers.* If you are a "processor-wholesaler" or a "processor-retailer", as defined in section 24 of this regulation, with respect to an item, you shall compute your ceiling prices for that item as follows:

(a) *Your base price.* You shall compute your base price as follows:

(1) If you are a processor-wholesaler, you shall determine the weighted average gross sales price per dozen containers of all of your sales of the item as a wholesaler during the base period regardless of the point of sale, and divide this weighted average by the markup figure named in Ceiling Price Regulation 14 (16 F. R. 2725) for the wholesale class in which you operate having the highest markup. If you are a processor-retailer, you shall determine the weighted average sales price per unit of your sales of the item as a retailer during the base period regardless of the point of delivery and divide this weighted average by 100 percent plus the markup provided in Ceiling Price Regulation 15 (16 F. R. 2735) for Group 4 stores. You then convert this weighted average price per unit to a per dozen basis.

(2) You then deduct from the wholesale or retail figure resulting from the above division the weighted average transportation charge which was included in such sales price. The resulting figure is your "base price" as that term is used in section 2 (a) of this regulation.

(b) *Ceiling prices f. o. b. factory.* Using the base price determined under paragraph (a) of this section, you shall then determine your f. o. b. factory ceiling price in accordance with the provisions of sections 2, 3, or 4 of this regulation.

(c) *Ceiling prices at wholesale.* For any sales of the item at wholesale, you shall proceed as a wholesaler under the provisions of CPR 14, as amended, finding your "net cost" by substituting your f. o. b. factory ceiling price determined under paragraph (b) of this section, for the "amount paid your supplier" under CPR 14, as amended. The result is your ceiling price at wholesale.

(d) *Ceiling prices at retail.* For any sales of the item at retail, you shall proceed as a Group 4 retailer under the provisions of CPR 15, as amended, finding your "net cost" by substituting your f. o. b. factory ceiling price determined under paragraph (b) of this section for the "amount you paid your supplier" under CPR 15, as amended.

SEC. 6. *Individual authorization of ceiling prices.* If you cannot determine your ceiling price for an item under any of the foregoing pricing methods of this regulation you shall, before delivering the item to any purchaser, apply to the Fruit and Vegetable Branch, Office of Price Stabilization, Washington 25, D. C., for a ceiling price for each factory or group of factories at which you process the item.

(a) *Information that must be given in all cases.* In all such cases, you shall submit, if available, the following information in your application:

(1) A description in detail of the item for which a ceiling price is sought, a statement of the facts that make it different from the most similar item of soup for which you have determined a ceiling price, identifying the similar item and stating its ceiling price, and a statement giving the reasons why a ceiling price cannot be established under the pricing methods of this regulation. The statement should indicate whether sales of the item have previously been made, and if so, whether a ceiling price was established under the General Ceiling Price Regulation, and if so, the ceiling price so established for each class of purchaser and the section of that regulation under which established.

(2) The total cost of ingredients other than raw vegetables per dozen containers, showing separately the cost of each ingredient used in processing the item.

(3) The 1949, 1950 and 1951 weighted average raw vegetable costs per ton (or other unit of purchase) for each vegetable used, figured in the manner and subject to the limitations set forth in section 2 (d) of this regulation, and a statement showing the amount of each vegetable per dozen containers used in the item.

(4) An itemized statement of the estimated total costs per dozen containers computed in accordance with your customary accounting practice.

(5) The ceiling price proposed for the item, indicating whether it is for sale to wholesalers, retailers, consumers, or other classes of purchasers; and whether it is to be sold on an f. o. b. factory or delivered basis; and also indicating any discounts, or allowances that should be applicable to the proposed price and a list of your customary discounts, transportation and other allowances and price differentials.

(6) The volume of the item which you have on hand and which you expect to produce during the remainder of the pack year.

If you cannot furnish any requested information, state why you cannot supply it.

(b) *Supplementary information must be given if specifically requested.* You shall mail to the Fruit and Vegetable Branch, Office of Price Stabilization, Washington 25, D. C., within 15 days after receipt of its request, such additional information as shall be requested. If you fail, without reasonable explanation, to submit all additional information that may have been requested within 15 days after the request is mailed, your application shall be considered withdrawn and the docket closed. Unless the application is refiled, the docket will not be reopened upon later receipt of this information, and further consideration by the Office of Price Stabilization will not be given.

(c) *Disposition of application.* (1) Upon receipt of the application, the Office of Price Stabilization will authorize a ceiling price, or a method for determining the ceiling price, for the applicant or for sellers of the item generally. The ceiling price authorized shall be one that bears a proper relationship to those for comparable items sold by other processors.

(2) A proposed price shall be considered authorized 20 days after the application (or all additional information that may have been requested) is received by registered mail, return receipt requested, by the Fruit and Vegetable Branch, Office of Price Stabilization, Washington 25, D. C., unless, within that time, the applicant has received from the Office of Price Stabilization a notice to the contrary.

(d) *Delivery before authorization of ceiling prices.* After filing the application, you may deliver the item and receive a payment of not more than 75 per cent of the proposed price, but you may not receive further payment for it until a ceiling price is authorized.

(e) *Revision of prices by the Office of Price Stabilization.* Any ceiling price established under this section shall be subject to revision at any time by the Office of Price Stabilization.

SEC. 7. *Uniform f. o. b. factory prices for factories in different pricing areas.* (a) If you process the items being priced at more than one factory, and if your ceiling prices for the item vary by factories located in different pricing areas, and if the item is not included in a uniform price line, you may establish a uniform ceiling price for the item for any group of factories in those areas by figuring a weighted average of their separate ceiling prices.

(b) For any two or more factories selected by you, the "weighted average ceiling price" shall be figured by you as follows:

(1) You shall (i) determine the total estimated receipts for the item which would have been obtained if your total production of the item at those factories during 1950 had been sold at the separate ceiling prices otherwise determined under this regulation, and (ii) divide that figure by the total number of dozens of the item included in that total production. The result is your uniform f. o. b. factory price.

(c) If you at any time recalculate your ceiling prices for an item under the provisions of sections 2, 3, or 4 of this regulation, you shall at that time refigure your weighted average ceiling price under this section.

SEC. 8. *Delivered prices.* You may figure a delivered ceiling price by adding to the ceiling price for the item f. o. b. factory, the amount of the current transportation charges per sales unit of that item.

SEC. 9. *Uniform delivered pricing by zones or areas*—(a) *Sellers who sold during 1950 on a uniform delivered price by zones or areas*—(1) *For one factory.* If you sold or delivered an item, or a group of items in a uniform price line, covered by this regulation during 1950 on an established uniform delivered price basis by zones or areas, you may establish a delivered ceiling price for the same zones or areas by adding to your ceiling price f. o. b. factory, an average transportation charge, figured on the same basis as you figured such charge during 1950, but at current transportation rates. If you desire to sell an additional item not sold during 1950 on such uniform delivered price basis, you may establish a uniform delivered ceiling price for the same zones or areas, by adding to your f. o. b. factory ceiling price for the item, or group of items in a uniform price line, transportation charges which are mathematically proportional by shipping weight to the charges which were added to an item, or group of items in a uniform price line, of the nearest shipping weight sold on a uniform delivered price basis in 1950.

(2) *For two or more factories.* If you sold an item, or group of items in a uniform price line, during the calendar year 1950 from two or more factories on an established uniform delivered price basis, by zones or areas, regardless of the factories from which the shipment was made, you may continue such practice for the same zones or areas. Your uniform delivered ceiling price for the item, or group of items included in a uniform price line, shall be the weighted average of the delivered ceiling prices, as figured in subparagraph (1) of this paragraph, for the item, or group of items in a uniform price line, computed on the basis of the proportion of sales of the pack of the item, or group of items in a uniform price line, made during 1950 from each of your respective factories.

SEC. 10. *Payment of brokers.* In accordance with trade custom every broker shall be considered as the agent of the canner and not the agent of the buyer. In each case, the amount paid by the buyer to the processor plus any amount paid by the buyer for brokerage service to the broker shall not exceed the total of the processor's ceiling price and allowable transportation costs actually paid by the processor or by the broker. The term "broker" includes a "finder".

SEC. 11. *Special packing expenses that may be reflected in ceiling prices*—(a) *Conditions under which special packing expenses may be reflected in ceiling prices.* Special packing expenses to meet special written requirements of the buyer for government use, or for export, are a basis for increasing or decreasing ceiling prices for sales of an item if the following conditions are satisfied:

(1) The item must be packed in a manner, package or container that is different from and more or less expensive than standard packing; and

(2) The processor must pack the item for sale by himself and not for another on a custom or toll basis.

(b) *Ceiling prices for sales that meet the conditions of paragraph (a).* For any sale that satisfies the requirements of paragraph (a) of this section, your ceiling price as otherwise determined under this regulation must be decreased by the amount by which the cost of special packing is less than the cost of standard packing, and may be increased by the amount by which such cost of special packing is greater than the cost of standard packing.

(c) *Invoice and record-keeping requirements.* In any cases where your ceiling price is decreased or increased under paragraph (b) of this section, you shall:

(1) Show separately the amount of the decrease or increase in your contract of sale or on your invoice.

(2) In addition to the records otherwise specified by this regulation, prepare and keep for inspection by the Office of Price Stabilization, for two years, from the date of your invoice to the buyer, accurate records showing the cost of standard packing and the cost of packing according to the specifications of the buyer.

(d) *Computation of costs.* Costs must be figured according to your established accounting methods. Appropriate allowances shall be made for any materials salvaged in unpacking and repacking.

(e) *Meaning of "packing" and "standard packing".* "Packing" means the providing of wrappings, inner containers, or outer containers; the placing of commodities in such wrappings or containers; the application of any special coverings or coatings; and any unpacking and repacking necessary to conform to the specifications of the buyer.

"Standard packing" means the most expensive packing the cost of which was included in figuring the ceiling prices established by this regulation.

SEC. 12. *Units of sale and fractions of a cent.* (a) Ceiling prices shall be stated in terms of the same general sales units (like dozens, cases, etc.) in which you have customarily quoted prices for the product. Sales in units other than those in which you computed your ceiling price shall be at that ceiling price adjusted for the number of containers in the unit and for customary discounts and differentials.

(b) Amounts computed in the process of figuring a ceiling price (other than the ceiling price itself) shall be carried to four decimal places (hundredth of a cent). If any figured ceiling price includes a fraction of a cent, you shall adjust the ceiling price to the nearest cent or one-half cent in accordance with your established method for quoting your sales prices.

SEC. 13. *Maintenance of customary discounts, allowances and price differentials.* You shall not change any customary allowance, discount or other price differential to a purchaser or class of purchaser, if the change results in a higher price to that purchaser or class. However, this provision shall not require you to sell any item unlabeled, or under a buyer's label, or to extend or duplicate any temporary promotional campaign.

SEC. 14. *Export sales.* The ceiling price at which you may export any item covered by this regulation shall be determined in accordance with Ceiling Price Regulation 61 (16 FR–7597).

SEC. 15. *Storage; winter storage.* Storage costs incurred on goods owned by you shall not be added to your ceiling prices if absorbed by you during the base period. Storage by you of goods owned by the buyer shall be charged for in accordance with the rates provided by the ceiling price regulation applicable to such services. However, you may add to your ceiling price f. o. b. factory for an item, as determined under this regulation, a dollars-and-cents amount per dozen containers for winter storage if you sold that particular item on a winter storage basis during the year July 1, 1949, to June 30, 1950. You shall add to your ceiling price no more than the same dollars-and-cents winter storage you charged during the base year for that particular item and you shall offer for sale at your ceiling price without a winter storage charge proportionally as much of your 1951 pack of the item as you sold in the base year without a winter storage charge.

SEC. 16. *Records which must be kept.* If you make sales of items covered by this regulation you shall:

(a) Make and preserve for examination by the Office of Price Stabilization, for two years from the date of your invoice to the buyer, all records of the same kind as you have customarily kept, relating to the prices which you charged for those sales, and

(b) Preserve for examination by the Office of Price Stabilization for as long as the Defense Production Act, as amended, remains in effect, and for two years thereafter, all your existing records which were the basis of figuring your ceiling prices in the manner directed by this regulation, showing the method used in figuring the ceiling prices.

SEC. 17. *Reports which must be filed.* (a) If you determine ceiling prices for items covered by this regulation, you shall mail to the Fruit and Vegetable Branch, Office of Price Stabilization, Washington 25, D. C., a report signed by you, on a form obtainable from the Office of Price Stabilization, for all items for which you determine ceiling prices under this regulation. However, a supplemental form shall be filed if ceiling prices for some items are determined or recalculated at a later date. Copies of the reporting form OPS Public Form Pub. 95 may be obtained from any field office of the Office of Price Stabilization, or from the Fruit and Vegetable Branch, Office of Price Stabilization, Washington 25, D. C.

(b) The reports required by this section for any item shall be mailed to the Fruit and Vegetable Branch, Office of Price Stabilization, Washington 25, D. C., within 5 days after such item is offered for sale, or the ceiling price is recalculated.

SEC. 18. *Sales slips and receipts.* If you have customarily given a purchaser a sales slip, invoice or similar evidence of purchase, you shall continue to do so. Upon request, you shall, regardless of previous custom, give the purchaser a receipt showing the date, your name and address, the name and quantity of each item sold, and the price received for it.

SEC. 19. *Transfer of factory.* If a factory of a processor subject to this regulation is sold or its operation otherwise transferred to you on or after October 3, 1951, your ceiling prices with respect to such factory shall be the same as those to which your transferor would have been subject if no such transfer had taken place, and your obligation to keep record sufficient to verify such prices shall be the same. The transferor shall either preserve and make available, or turn over, to you all records of transactions prior to the transfer which he has and which are necessary to enable you to comply with the record provisions of this regulation.

SEC. 20. *Adjustable pricing.* You may agree to sell at a price which can be increased up to the ceiling price in effect at the time of delivery, but you may not, unless authorized by the Office of Price Stabilization, deliver or agree to deliver at prices to be adjusted upward in accordance with action taken by the Office of Price Stabilization after delivery. Such authorization may be given when a request for a change in the applicable ceiling price is pending, but only if the authorization is necessary to promote distribution and will not interfere with the purposes of the Defense Production Act, as amended. The authorization may be given by the Director of Price Stabilization or by any official of the Office of Price Stabilization having authority to act upon a pending request for a change in price or to give the authorization. The authorization will be given by order except that it may be given by letter or telegram when the contemplated action is the authorization of an individual ceiling price.

SEC. 21. *Treatment of excise taxes*—(a) *Taxes in effect during base period.* If, during the base period, you separately stated and collected any excise or similar tax you may continue to collect the current amount of any such tax in addition to your ceiling price. If you did not customarily during the base period state and collect separately from the purchase price, the amount of tax paid by you, you may not collect the amount of such tax in addition to your ceiling price.

(b) *Taxes imposed since base period.* In all other cases, if at the time you determine your ceiling price the statute or ordinance imposing the tax does not prohibit you from stating and collecting the tax separately from the purchase price, you may collect in addition to your ceiling price, the amount of the tax actually paid by you.

In every case when the tax is collected from the purchaser the amount thereof shall be separately stated.

SEC. 22. *Compliance with this regulation*—(a) *No selling or buying above ceiling prices.* Regardless of any contract or obligation no person shall sell or deliver or, in the course of trade, buy or receive any item at a price higher than the ceiling price established by this regulation, including ceiling prices calculated, recalculated, or adjusted under this regulation.

(b) *Evasion.* No person shall evade a ceiling price, directly or indirectly, whether by commission, service, transportation, or other charge or discount, premium, or other privilege; by tie-in requirement or other trade understanding; by any change of style of pack; by a business practice relating to grading, labeling or packaging or in any other way.

(c) *Enforcement.* Any person violating a provision of this regulation is subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided by the Defense Production Act, as amended.

SEC. 23. *Petitions for amendments, protests and interpretations.* Any protest, petition for amendment, or request for interpretation of this regulation, may be filed in accordance with the provisions of Price Procedural Regulation 1, Revised (16 F. R. 9055).

SEC. 24. *Definitions.* When used in this regulation the term:

(a) "Base period" means the period July 1, 1949, to August 31, 1949, inclusive (or the two accounting months used by your company which most closely comprise this period).

(b) Customary allowances, discounts and price differentials" means those differentials for cash discount, swell allowances, allowance for buyer's labels, for unlabeled goods, for differences in volume of sales, for class of buyer, or for method or time of delivery, which were customary in the business of the processor and in effect prior to and during the base period.

(c) "Ingredient" means any food material, other than raw vegetables, used in the processing of soup, and includes processed vegetables (e. g. frozen, brined, dried, etc.), meats, poultry, fish or seafood, stocks of meats, poultry, fish or seafood, grains (e. g. rice, barley, etc.), condiments and wines.

(d) "Item" means a kind, variety, density, style of pack, or container type or size of soup. Chowders, bisques, and consommes are included.

(e) "Person" means an individual, corporation, partnership, association, or any other organized group of persons, and their legal successors, or representatives. The term includes the United States, its agencies, other governments, their political subdivisions and their agencies.

(f) "Processor" means a person who manufactures any part of the kind of soup being priced. The term includes a person who has the kind of soup processed for him by another and who owns the ingredients and raw vegetables immediately prior to and throughout the processing.

(g) "Processor-retailer" means a person who is a processor and who sells the soup being priced at retail.

(h) "Processor-wholesaler" means a person who is a processor and who sells the soup being priced at wholesale.

(i) "Raw vegetable" means any fresh vegetable.

(j) "Sales at retail" means sales to ultimate consumers other than commercial, industrial and institutional users.

(k) "Sales at wholesale" means sales with respect to which a processor has performed the function of selling as a wholesaler to retail stores, but not including sales to chain store buying agencies, or associations of retail buying agencies which warehouse the product prior to distribution to the individual retail outlet.

(l) "Seasonal soup" is one the entire pack or major portion of which is processed during the harvest season of the principal raw vegetable included therein.

(m) "Uniform price line" means two or more kinds of soup which are sold at the same price f. o. b. factory.

(n) "You" or "Your" means any processor whose sales are covered by this regulation.

Effective date. The effective date of this regulation is October 3, 1951, or such earlier date between September 28, 1951, and October 3, 1951, as you may select. If you select an earlier date, the regulation becomes effective as to you upon that date for all items of soup covered by the regulation.

NOTE: The record keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

SEPTEMBER 28, 1951.

[F. R. Doc. 51-11851; Filed, Sept. 28, 1951; 10:54 a. m.]

[General Ceiling Price Regulation, Supplementary Regulation 69]

GCPR, SR 69—ADJUSTABLE PRICING FOR SALES OF WET, DRIED AND PRESSED BEET PULP

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation 69 to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

Seasonal production of beet pulp in some areas is now at its height. However, many sellers made no sales in the General Ceiling Price Regulation base period and it is administratively difficult to fix prices under section 7 of the General Ceiling Price Regulation. In addition, the General Ceiling Price Regulation caught the industry at a low price level in relation to other carbohydrate feed products, being in some areas as much as $15 to $20 below that of competitive feeds. In some areas acreage of beet plup has been reduced in favor of other more profitable crops. This has further aggravated the problem. The industry is subject to an excess of demand over supply because of the low price in relation to other feedstuffs and is allocating beet pulp among its customers. A tailored regulation covering the product is in process but has been delayed by various uncontrollable factors. Consequently, a pricing method must be provided until the tailored regulation can be completed. The adjustable pricing technique used in Supplementary Regulation 51 is a device which, it has been decided, should be utilized in this emergency.

For the reasons above, this Supplementary Regulation 69 to the General Ceiling Price Regulation is issued to permit processors of wet, dried and pressed beet pulp to sell their products at prices agreed upon between themselves and the buyers, provided that the processor agrees in writing that the final sales prices will be either the contract price or the ceiling price hereafter established, whichever is lower, for the beet pulp; and provided, further, that, if the ceiling price subsequently fixed is lower than the contract price, the difference will be promptly refunded in cash to the purchaser who buys for cash. If the feeder is also a grower supplying the processor with sugar beets on an open contract, the refund is to be made by adjustment of the amounts finally paid the feeder for his beets.

In the judgment of the Director of Price Stabilization, the provisions of this supplementary regulation are generally fair and equitable and are necessary to effectuate the purposes of the Defense Production Act of 1950, as amended. So far as practicable, the Director has given due consideration to the national effort to achieve maximum production in furtherance of the Defense Production Act of 1950, as amended, and to relevant factors of general applicability.

This regulation is issued to meet an emergency situation. It was not practicable, therefore, to consult with official industry advisory committees, including trade association representatives. Prior to the issuance of this regulation, however, the Director consulted with representatives of the industry and has given consideration to their recommendations.

REGULATORY PROVISIONS

Sec.

1. Coverage.
2. Adjustable pricing.
3. Automatic revocation.

AUTHORITY: Sections 1 to 3 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101-2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 C. F. R., 1950 Supp.

SECTION 1. *Coverage.* This supplementary regulation applies to all sales by a processor of wet beet pulp, dried beet pulp and pressed beet pulp. Beet pulp is the fibrous residue of beets resulting from the manufacture of sugar from sugar beets which have been cleaned and freed from crowns, leaves and sand. "Wet beet pulp" means beet pulp other than dried or pressed beet pulp. It includes "green" beet pulp, that is, pulp freshly produced, and "siloed" beet pulp, that is, beet pulp which has been stored in pulp silos for any length of time. "Dried beet pulp" means beet pulp which has been dried through the use of pulp drying equipment. "Pressed beet pulp" means beet pulp which has been pressed to reduce its moisture content and which is thereafter sold without being stored in a silo by a processor.

SEC. 2. *Adjustable pricing.* A processor of wet, dried, or pressed beet pulp, as defined in section 1 of this supplementary regulation, may offer to sell, or sell and deliver, and may receive payment for sales and deliveries of the pulp at a contract price agreed upon in writing between the processor and his buyer: *Provided,* That the seller and buyer shall agree in writing that the final price for any sale or delivery of the pulp under the supplementary regulation shall be either (a) the contract price, or (b) the ceiling price for the pulp under any applicable ceiling price regulation hereafter issued fixing ceiling prices for the pulp, which ever price is lower: *And provided further,* That the seller shall agree in writing with the buyer (1) to refund promptly to the buyer paying cash the difference between the contract price for the pulp and any lower ceiling price for the pulp which may hereafter be established, or (2) where sales of the pulp are made on credit to buyers who supply the processor with beets, to increase at the end of the first accounting period after the sale of the pulp to the grower, the amount paid the grower for beets by the difference between the contract price for the pulp and any lower ceiling price for the pulp which may hereafter be established.

SEC. 3. *Automatic revocation.* This regulation shall be automatically revoked on the effective date of a specific ceiling price regulation fixing ceiling prices for beet pulp.

Effective date. This supplementary regulation shall become effective October 3, 1951.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

SEPTEMBER 28, 1951.

[F. R. Doc. 51-11863; Filed, Sept. 28, 1951; 4:00 p. m.]

[General Ceiling Price Regulation, Supplementary Regulation 68]

GCPR, SR 68—SUSPENSION FROM PRICE CONTROL OF UNTREATED EASTERN RAILROAD TIES

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105) and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation No. 68 to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

Eastern railroad cross ties and switch ties produced in that part of the United States east of the 100th meridian, except North Dakota and South Dakota, are produced in the main by farmers and small lumber mills. The majority of these ties are purchased by tie contractors who accumulate them and then sell them to the railroads. However, some of the railroads purchase some of their tie requirements directly from the small producers and mills along their lines. In many instances these railroads are unable to obtain their full requirements in this manner and must resort to purchasing off-line ties which means added freight cost in transporting such off-line ties to their own lines.

From the summer of 1949 to the fall of 1950, the railroads were almost completely out of the market for ties. Programs were reduced and the purchases were limited to token orders at near or less than break-even prices to the producers. During the same period, there was a sustained demand for lumber at increasingly higher prices. Consequently, a great number of these farmers and small mills diverted their operations to the manufacture of lumber rather than railroad ties. Both the producers and the railroads were cognizant of this condition, but neither realized that it would be coupled with the exigencies of a national emergency.

A report of the Bureau of Railroad Economics states that Class I railroads in 1950 spent $26,312,000 less for cross ties than in 1949. Consequently, some of the ties purchased in 1949 for 1950 replacements were carried over for 1951 replacements, which explains the small production of ties during the period extending from the summer of 1949 to the fall of 1950.

The resumption of tie purchases by the railroads during the fourth quarter of 1950 resulted in an upward adjustment of prices in the majority of the producing areas. However, prices were not adjusted in all of the areas. As a result, the General Ceiling Price Regulation froze prices at various levels which have created inequities which, in turn, have materially curtailed production in the low priced areas. Unfortunately, these areas, in many instances, are adjacent to the railroads and since production has been curtailed, it has necessitated their reaching out to alternative sources of supply at higher costs.

Information is not now available to prepare a tailored regulation which would rectify the aforegoing situation. The immediate production of these ties is essential to the operations of these railroads. Consequently, it has been determined that the only practical means of procuring the necessary supply during the forthcoming favorable operating season is to temporarily suspend from price controls sales of untreated ties produced east of the 100th meridian, except North Dakota and South Dakota. This suspension will apply to only untreated ties since those which are treated will remain under the coverage of the GCPR. It is anticipated that the general level of untreated tie prices will not rise but that the inequities prevailing in the low priced areas will be able to be corrected at no higher rise than the levels prevailing in the majority of the areas where prices were adjusted upward during the fourth quarter of 1950.

Railroads limit their purchases to actual program requirements and should be able to stabilize prices on untreated ties. This action will have no effect on the cost of living or in the cost of the defense effort. This temporary suspension will automatically terminate on December 31, 1951 or on the effective date of a tailored regulation whichever is earlier.

FINDINGS OF THE DIRECTOR OF PRICE STABILIZATION

In the judgment of the Director of Price Stabilization, the provisions of Supplementary Regulation 68 to the GCPR are generally fair and equitable and are necessary to effectuate the purposes of the Defense Production Act of 1950, as amended.

So far as practicable, the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production and the furtherance of the objectives of the Defense Production Act of 1950, as amended.

In formulating this supplementary regulation, the Director has consulted with representatives of the industry to the extent practicable under the circumstances and has given consideration to their recommendations.

REGULATORY PROVISIONS

Sec.
1. What this supplementary regulation does.
2. Suspension for Eastern railroad ties.
3. Definitions.

AUTHORITY: Sections 1 to 3 issued under Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this supplementary regulation does.* The purpose of this supplementary regulation is to suspend from the provisions of the General Ceiling Price Regulation, hereinafter referred to as the GCPR, sales and purchases of "untreated railroad cross ties and untreated railroad switch ties," hereinafter referred to as Eastern railroad ties, produced in that part of the United States east of the 100th meridian, except North Dakota and South Dakota.

SEC. 2. *Suspension for Eastern railroad ties.* During the period from the effective date of this regulation to the effective date of a specific ceiling price regulation for Eastern railroad ties, the provisions of the GCPR shall not apply to sales and purchases of Eastern railroad ties produced in that part of the United States east of the 100th meridian, except North Dakota and South Dakota, provided these ties are delivered during this period. However, if no spe-

cific ceiling price regulation for Eastern railroad ties becomes effective by January 1, 1952, then all sales and purchases of Eastern railroad ties shall on that date become subject to the provisions of the GCPR. During the period of suspension the record keeping requirements of the GCPR shall remain in effect.

SEC. 3. *Definitions.* When used in this supplementary regulation, the term:

(a) "Cross tie" means an untreated hewn or sawn forest product, of any specie, of a dimension as specified and established by the American Railway Engineering Association, suitable and sold for use in supporting the rails of railroad tracks.

(b) "Switch tie" means an untreated hewn or sawn forest product of any specie, of a dimension as specified and established by the American Railway Engineering Association, suitable and sold for use in supporting a switch in a railroad track.

(c) "Delivered". A railroad cross tie or switch tie shall be deemed to have been delivered during the period of suspension if during that period it was received by the purchaser or by any carrier, including a carrier owned or controlled by the seller, for shipment to the purchaser.

Effective date. This supplementary regulation shall become effective October 3, 1951.

NOTE: The record-keeping and reporting requirements of this supplementary regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

SEPTEMBER 28, 1951.

[F. R. Doc. 51-11864; Filed, Sept. 28, 1951; 4:00 p. m.]

[Ceiling Price Regulation 76]

CPR 76—GLASSINE AND GREASEPROOF PAPERS

Pursuant to the Defense Production Act of 1950 as amended, Executive Order 10161 (15 F. R. 6105) and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Ceiling Price Regulation 76 is hereby issued.

STATEMENT OF CONSIDERATIONS

This regulation establishes specific dollars-and-cents f. o. b. mill ceiling prices for 25 pound No. 1 bleached glassine paper and 25 pound No. 1 bleached greaseproof paper and provides a method for calculating the ceiling prices of related grades and new grades.

Description of commodity and industry. Glassine and greaseproof are closely formed papers characterized by resistance to grease and oil penetration. They are used chiefly in the wrapping and packaging of food. Glassine and greaseproof papers are basically the same, differing only in that glassine is supercalendered to increase its gloss and transparency following removal of the paper from the papermaking machine. The protective qualities of these papers are sometimes increased by application of a coating of wax or lacquer or by wax lamination. Although bleached glassine and bleached greaseproof papers constitute the basic grades, other grades manufactured in significant volume include baglass, supertransparent and opaque glassine, lard liner greaseproofs, cereal box liners, unbleached glassine and unbleached greaseproof. These grades constitute well over 75 percent of all the tonnage produced. The balance of the tonnage consists of a wide variety of specialties produced to meet the specifications of individual customers.

There are ten manufacturers of glassine and greaseproof paper in the United States, two of which account for approximately 50 percent of the tonnage produced. Production is concentrated in the Eastern and Midwestern States, which respectively account for 55 and 40 percent of total production. The remaining 5 percent is manufactured in the Pacific Northwest. Two mills producing 33 percent of the United States production have facilities for producing all or most of their pulp requirements. Eight producers, however, are non-integrated and consume substantial quantities of bleached and unbleached Mitscherlich Sulphite wood pulp which is chiefly imported from Canada and Scandinavia. Production of glassine and greaseproof paper in the United States has been steadily increasing in recent years and in 1950 amounted to almost 130 thousand tons valued at about 45 million dollars. During the first 6 months of 1951 the rate of operations further increased and production is estimated to have been about 70 thousand tons, valued at 25 million dollars.

The bulk of the industry's tonnage is sold to converters for processing into bags, laminated containers and other forms for a specific end use. Most manufacturers have confined their converting operations to laminating, coating, sheeting and winding. At present about 95 percent of the industry's output goes to converters or direct consumers, and the remaining 5 percent to merchants.

TABLE

Production of Glassine and Greaseproof papers in the United States for Specified Years, 1937 to 1950.

Year:	*Quantity (tons)*
1937	61,709
1939	96,325
1945	103,961
1947	114,769
1948	114,526
1949	110,336
1950	129,023

Source: Glassine and Greaseproof Manufacturers Association.

Necessity for this regulation. Historically, in this industry there has been uniformity among manufacturers in prices charged for each grade of product. This situation prevailed during the fourth quarter of 1950, but during January 1951 some mills increased their prices while others, in an effort to cooperate with the voluntary pricing standards issued by the Office of Price Stabilization on December 19, 1950, refrained from announcing price increases. Under CPR 22 the price structure of the industry became further distorted due to differences among mills in cost increases for materials in the post Korea period, some mills being heavily dependent on foreign sources of wood pulp. By issuance of this regulation existing variation in the ceiling prices now in effect for competing sellers of the same commodity will be eliminated and the industry will be returned to its historic pattern of uniform prices.

Level of ceiling prices under new regulations. Historically, 25 lb. No. 1 bleached glassine and 25 lb. No. 1 bleached greaseproof papers have been key grades in the price structure of the industry. Normally, when the prices of these grades are changed, prices of all other grades are changed by the same amount. These historical price relationships were taken into account in determining the ceiling prices established by this regulation. The ceiling prices for the key grades are $22.50 per hundredweight for 25 lb. No. 1 bleached glassine and $20.00 per hundredweight for 25 lb. No. 1 bleached greaseproof. These prices are about 7 percent higher than the prices prevailing for these grades during the period January 25, 1951 to February 24, 1951, inclusive, 27 percent above June 1950, and are at the level of the prices prevailing just before the date of issuance of this regulation. These ceilings reflect average increases in materials and labor costs which have occurred since the outbreak of the Korean War. Manufacturers will determine the ceiling prices of all other grades of glassine and greaseproof paper by application of grade differentials in effect during the period January 25, 1951 to February 24, 1951, inclusive. These are approximately equal to the differentials existing pre-Korea.

FINDINGS OF THE DIRECTOR OF PRICE STABILIZATION

In the judgment of the Director of Price Stabilization, the ceiling prices established by this regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950 as amended.

So far as practicable, the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production in furtherance of the objective of the Defense Production Act of 1950, as amended, to prices prevailing during the period from May 24 to June 24, 1950 inclusive; to prices prevailing January 25 to February 24, 1951 and to prices prevailing just before the issuance of this regulation; and to relevant factors of general applicability.

In formulating this regulation, the Director has consulted with representatives of the industry to the extent practicable under the circumstances, and has given consideration to their recommendations. The specifications or stand-

ards used in this regulation were in general use in this industry.

REGULATORY PROVISIONS

SEC.

AUTHORITY: Sections 1 to 16 issued under Sec. 704, 64 Stat. 816, as amended; 50 U. S. C., App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C., App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Sup.

SECTION 1. *Coverage of this regulation.*—(a) *Products and sellers.* This regulation establishes in section 4 manufacturers' base prices for the two basic grades of glassine and greaseproof papers on an f. o. b. mill basis and also provides a method for pricing related grades on an f. o. b. mill basis. Sales of related grades not sold or offered for sale during the base period are priced under the provisions of section 5.

(b) *Where this regulation applies.* This regulation applies only in the 48 states of the United States and the District of Columbia.

(c) *What this regulation supersedes.* For the products and sellers covered, this regulation supersedes the General Ceiling Price Regulation and Ceiling Price Regulation 22.

SEC. 2. *Definitions and explanations.* The terms in this Ceiling Price Regulation shall be construed in the following manner unless otherwise clearly required by the context.

(a) *Base period.* As used in this regulation the base period is the period from January 25, 1951 to February 24, 1951, inclusive.

(b) *Base price.* Means the highest price charged by you for a particular grade of paper before the application of the appropriate differentials provided for in section 6 of this regulation.

(c) *Basis weight.* Basis weight means the weight in pounds of a 500 sheet ream of paper 24" x 36" per sheet (total area 432,000 sq. in.).

(d) *Class of purchaser.* Class of purchaser is determined in the first instance by reference to your own practice of setting different prices for sales to different purchasers or groups of purchasers. The practice may (but need not) be based on the characteristics or distributive level of the buyer (for instance, manufacturer, wholesaler, individual retail store, retail chain, mail order house, government agency, public institution). It may (but need not) be based on the location of the purchaser or the quantity purchased by him. If you have followed the practice of giving an individual customer a price differing from that charged others, that customer is a separate class of purchaser.

(e) *Delivered.* A commodity under this regulation shall be deemed to have been delivered if it was received by the purchaser or by any carrier, including a carrier owned or controlled by the manufacturer, for shipment to the purchaser.

(f) *Differentials.* Differentials include all types of adjustments to a base price for a grade of paper, both by addition or subtraction, including but not limited to adjustments made for quantity, basis weight, color, finish, packing, cutting, discounts, allowances, etc.

(g) *Glassine and greaseproof papers.* Glassine and greaseproof papers are made from chemical woodpulps which are highly hydrated in order that the resulting papers may be resistant to oil and grease. They are those kinds, types and grades of paper made on fourdrinier paper machines recognized by the trade as glassine and greaseproof papers, including but not limited to the related grades enumerated in section 4 of this regulation. The provisions of this regulation do not, however, include any grades which are commonly recognized by the trade as imitation glassine or imitation greaseproof papers.

(h) *Highest price charged.* Highest price charged during a specified period means the highest price which the manufacturer charged a purchaser of the same class for a delivery of a grade of paper referred to in this regulation during that period, or, if the manufacturer made no such delivery, his highest offering price for delivery during that period to a purchaser of the same class.

(i) *Jumbo roll.* Jumbo roll refers to a roll of glassine or greaseproof paper usually 18" or more in width, with a diameter of 20" or more, and which has not been rewound after leaving the paper machine.

(j) *Manufacturer.* Manufacturer means any person who manufactures any of the papers covered by this regulation and includes the agents and representatives of such person.

(k) *Offering price.* The price at which a commodity was offered means the price quoted in the seller's price list, or if he had no price list, the price which he regularly quoted in any other manner. The term offering price does not include a price intended to withhold a commodity from the market or a price offered as a bargaining price by a seller who usually sells at a price lower than this asking price.

(l) *Person.* Person means an individual, corporation, partnership, association, or any other organized group of persons, or legal successors or representatives of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of the foregoing.

(m) *Plasticizer.* Plasticizer means a material added in the process of paper manufacture or applied as a coating to impart softness and pliability.

(n) *Ream.* Ream means a quantity of paper.

(o) *Related grades.* Related grades include those listed in section 3 of this regulation as well as any other grades which are allied either to glassine or greaseproof paper by reason of their use, physical characteristics, similarity of raw material and conversion processes employed.

(p) *You.* The pronoun you as used in this regulation indicates the person subject to this regulation.

SEC. 3. *Introductory pricing.* (a) This section explains the pricing provisions contained in the following sections 4 through 7 which you must consider in order to determine the ceiling prices that you may charge for the various grades of paper covered by this regulation. Section 4 establishes base prices for the two basic grades of glassine and greaseproof papers, and also provides a method for pricing related grades. Section 5 provides a method for pricing related grades not sold or offered for sale during the base period January 25, 1951 to February 24, 1951, inclusive. Section 7 provides a method whereby sellers who cannot price under other sections may apply for a price.

(b) The first step in determining the ceiling price applicable to the sale of any grade of paper covered by this regulation is to arrive at the base price. To this base price there may be added or shall be subtracted, as the case may be, all applicable differentials, charges, discounts, allowances, and other pricing elements that are set forth in section 6. The price determined after the addition or subtraction of these pricing elements establishes your ceiling price.

SEC. 4. *Base prices for glassine and greaseproof papers.*—(a) *Base prices for 25 lb. No. 1 bleached glassine paper and 25 lb. No. 1 bleached greaseproof paper.* (1) The base prices for 25 pound No. 1 bleached glassine paper, in wrapped rolls 12" or more in diameter, 6" in width and wider, wound on 3" inside diameter core; and for 25 pound No. 1 bleached greaseproof paper, in wrapped jumbo rolls not rewound, 12" or more in diameter, 18" in width and wider, wound on 3" inside diameter core shall be:

Grade:	*Base prices per cwt., f. o. b. mill*
(i) 25 pound base No. 1 bleached glassine	$22.50
(ii) 25 pound base No. 1 bleached greaseproof	20.00

(b) *Classification of related grades.* (1) With respect to bleached glassine paper, related grades include but are not limited to: Baglass, amber glassine, condenser and electrical glassine, opaque glassine, supertransparent glassine, window envelope glassine, embossed glassine, laminated glassine, cereal glassine, colored glassine, sulglass, ice cream bag, unbleached glassine, board liner glassine, breadwrapper glassine, waxing glassine, wet strength glassine, coating glassine, lacquer coated glassine.

(2) With respect to bleached greaseproof paper, related grades include but are not limited to: Lard liner greaseproof, unbleached greaseproof, greaseproof manifold, laminated greaseproof, colored greaseproof, opaque greaseproof, wet strength greaseproof, surface coated greaseproof, coating greaseproof, greeting card parchment, liner greaseproof.

(c) *Base prices for related grades sold or offered for sale during the base period.* (1) The base price for any related grade shall be determined as follows: You determine the highest price charged by you to a purchaser of the same class during the period January 25, 1951 to February 24, 1951, inclusive, for 25 pound No. 1 bleached glassine paper or 25 pound No. 1 bleached greaseproof paper, whichever shall be applicable, and ascertain the difference between that price and the highest price charged by you to a purchaser of the same class during the same period for the related grade that is to be priced. The difference between the two shall be added to or subtracted from, as the case may be, the base price stated in this regulation for either 25 pound No. 1 bleached glassine paper or 25 pound No. 1 bleached greaseproof paper whichever shall be applicable. The resulting computation shall constitute the base price for the related grade being priced. To that base price there shall be applied the appropriate differentials, charges, discounts, allowances, and other pricing elements in accordance with section 6 of this regulation.

SEC. 5. *Base prices for related grades of glassine and greaseproof papers not sold or offered for sale during the base period.* (a) The base price on an f. o. b. mill basis for a related grade of glassine or greaseproof paper which was not delivered or offered for delivery during the base period, January 25, 1951 to February 24, 1951, inclusive, shall be a price in line with the base price established by this regulation for the nearest related grade. "The nearest related grade" shall be that grade listed in section 4 of this regulation which you are producing currently and the total current unit direct cost of which is closest to the total current unit direct cost of the new grade for which a price is sought.

If the total current unit direct cost of the new grade and the nearest related grade are the same, the ceiling price for the new grade shall be the same as the ceiling price for the related grade. In the event that the total current unit direct cost of the new grade and the nearest related grade differ, the "in line" price shall be established by obtaining the difference in the current unit direct cost of each such grade and adding to or subtracting from, as the case may be, the base price of the nearest related grade this difference in the current unit direct cost.

(b) "Current unit direct cost" as used in this section means the sum of the amounts (not higher than permitted by law) which it costs you for direct labor and materials to produce the grade at the time you use the pricing method provided by this section. Current unit direct materials costs shall be computed upon the basis of current replacement prices for materials, and current unit direct labor cost shall be computed upon the basis of current wage rates for direct labor. The method used in computing current unit direct materials cost and current unit direct labor cost for the new grade and related grade shall be the same in every respect.

(c) After you have determined your base price for your new grade pursuant to sections (a) and (b) of this section, you shall determine your ceiling price by computing all relevant differentials in accordance with section 6 of this regulation.

(d) *Required report.* (1) Before selling any commodity for which you have determined a ceiling price under this section, you must file the report required by subparagraph (2) of this paragraph with the Director of Price Stabilization, Washington 25, D. C., and in addition you may not sell the commodity until 15 days after filing your report; thereafter, you may sell the commodity at your proposed ceiling price unless and until notified by the Director of Price Stabilization that your proposed ceiling price has been disapproved or that more information is required. In the event that more information is required you may not sell until 15 days after filing the additional information.

(2) Your report should state the name and address of your company; a description of the grade being priced; the related grade and an explanation why you have selected the related grade as such; a description of the category in which the grade being priced and the related grade fall; your ceiling price to the largest buying class of purchaser of your related grade; a detailed breakdown of the current unit direct cost of the related grade; the gross margin, and the percentage mark-up over current unit direct cost for the related grade; a detailed breakdown of the current unit direct cost of the grade being priced; the ceiling price of the grade being priced; delivery charges, discount and differentials in effect for sales to purchasers of various classes with respect to the related grade.

SEC. 6. *Differentials*—(a) *For basis weight.* (1) For basis weight less than 25 pound add the following to base prices:

(i) $0.60 per cwt. for each pound below 25 pound basis weight, down to and including 20 pound.

(ii) $1.50 per cwt. for each pound below 20 pound basis weight, down to and including 16 pound.

(iii) $3.00 per cwt. for each pound below 16 pound basis weight.

(b) *For quantities.* (1) Orders for less than 500 pounds of any single grade, basis weight, or size, add $2.00 per cwt.

(2) Orders for less than 100 pounds of any single grade, basis weight, or size, add $1.00 packing and handling charge to above differential.

(c) *For embossing.* (1) For basis weights 25 pound and heavier—add $4.00 per cwt.

(2) For basis weights below 25 pound—add $5.00 per cwt.

(d) *For sheeting.* (1) Plain—not embossed.

SCHEDULE A—DIFFERENTIALS FOR PLAIN (NOT EMBOSSED) SHEETS

STANDARD PACKING—PER HUNDREDWEIGHT

	Cases, bales, cartons, bundles			Skids (2,000 pounds net minimum)		
	Not trimmed	2 sides trimmed	4 sides trimmed	Not trimmed	2 sides trimmed	4 sides trimmed
More than 1,800 sq. in	$3.00	$3.50	$4.00	$2.00	$2.50	$3.00
Less than 1,800 sq. in. but not less than 1,200 sq. in	2.00	2.25	2.50	.50	1.50	1.75
Less than 1,200 sq. in. but not less than 600 sq. in	1.50	1.75	2.00	.50	1.25	1.50
Less than 600 sq. in. but not less than 144 sq. in	2.00	2.25	2.50	1.00	1.75	2.00
Less than 144 sq. in. but not less than 96 sq. in	2.50	2.75	3.00	----------	----------	----------
Less than 96 sq. in. but not less than 48 sq. in	3.00	3.25	3.50	----------	----------	----------
Less than 48 sq. in. but not less than 36 sq. in	----------	----------	4.00	----------	----------	----------
Less than 36 sq. in. but not less than 24 sq. in	----------	----------	5.00	----------	----------	----------
Less than 24 sq. in. but not less than 15 sq. in	----------	----------	6.00	----------	----------	----------
Less than 15 sq. in. but not less than 10 sq. in	----------	----------	9.00	----------	----------	----------
Less than 10 sq. in	----------	----------	16.00	----------	----------	----------

NOTES: To Schedule A; "standard packing" in the above schedule A is construed to mean the following:

Cases: Ream banded 500 count, full wood cases, lined and steel strapped 500 pounds net weight approximately.

Bales: Ream marked, 500 count, solid wood frame top and bottom, open sides and ends protected with heavy wrapping, securely steel strapped, 500 pounds net weight approximately.

Cartons: Ream banded 500 count, carton style either full telescope or a regular slotted carton where the laps meet, convenient weight.

Bundles: Ream marked 500 count, heavy wrappers, rope tied, approximately 100 pounds net weight.

Skids: Ream marked 500 count, solid construction platform, solid frame cover, with corner board protectors, adequately wrapped and protected, steel strapped, approximately 2,000 pounds net weight. Returnable skids to be charged for on invoice at $10 each net to insure return, with corresponding credit issued customer for each usable complete skid returned to mill.

(2) Sheets—embossed. Add $0.50 per cwt. over Schedule A differentials.

(3) Sheets—extra large width or length. (i) Where either width or length is 54" or over but less than 96", add $0.50 per cwt. over Schedule A differentials.

(ii) Where either width or length is 96" or over add, $1.00 per cwt. over Schedule A differentials.

(e) *For packaging.* (1) When glassine and greaseproof papers are sold on a per ream or nominal basis weight, a differential of 5 percent shall be added to the price of all grades and weights.

(2) Full ream sealed where ream banding or ream marking is standard.

More than 1,800 sq. in.—add $1.00 cwt.

Less than 1,800 sq. in. but not less than 144 sq. in.—add $0.50 cwt.

Less than 144 sq. in. but not less than 48 sq. in.—add $1.00 cwt.

Less than 48 sq. in.—add $2.00 cwt.

(3) Special ream counts.

480 count, 960 count, or 1,000 count—no charge.

Other special counts—add $0.50 cwt.

(4) Export packing differential—add $1.00 cwt.

(f) *For diameter of rolls.*

SCHEDULE B.—DIFFERENTIALS TO BE ADDED FOR DIAMETER OF ROLLS PER HUNDREDWEIGHT

Outside diameter of roll (inches)	Core—inside diameter (inches)					
	1	2	3	4	5	6
5	$1.00	$1.00	$1.00	------	------	------
6	1.00	1.00	1.00	$1.00	------	------
7	.50	1.00	1.00	1.00	$1.00	------
8	.50	.50	1.00	1.00	1.00	$1.00
9	.50	.50	.50	1.00	1.00	1.00
10	.50	.50	.50	.50	1.00	1.00
11	.50	.50	.50	.50	.50	1.00
12	------	------	------	.50	.50	.50
13	------	------	------	------	.50	.50
14—No charge above 14-inch diameter						.50

(g) *For roll widths.*

	Per hundredweight
(1) Widths less than 6" but not less than 4½"	$1.00
(2) Widths less than 4½" but not less than 3"	2.00
(3) Widths less than 3" but not less than 2"	3.00
(4) Widths less than 2" but not less than 1"	5.00
(5) Widths less than 1"	8.00

(h) *For rewound greaseproof rolls.* All greaseproof rolls which for any reason cannot be supplied in jumbo rolls off the paper machine and therefore must be rewound—add $1.00 hundredweight.

(i) *Differential for extra casing or crating of jumbo rolls.* When glassine or greaseproof papers in jumbo roll form are specially cased or crated—add $2.00 hundredweight.

(j) *Differentials for plasticizer.*

SCHEDULE C.—DIFFERENTIAL PER HUNDREDWEIGHT FOR RETAINED PLASTICIZER TO BE ADDED TO BASE PRICES

[Cents per hundredweight]

Percent retained plasticizer		Cost of plasticizer in cents per pound—100 percent solids																
Exceeding—	Not exceeding—	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	85	1.00
	4	------	.50	.75	1.00	1.25	1.50	1.75	2.00	2.25	2.50	2.75	3.00	3.25	3.50	3.75	4.25	5.50
4	6	------	.75	1.00	1.25	1.75	2.00	2.25	2.75	3.25	3.50	3.75	4.00	4.50	5.00	5.50	6.00	7.50
6	8	.50	1.00	1.25	1.75	2.25	2.50	3.00	3.50	4.00	4.50	4.75	5.25	5.75	6.50	7.25	8.00	9.75
8	10	1.00	1.25	1.50	2.25	2.75	3.25	3.75	4.50	5.00	5.50	6.00	6.75	7.25	8.25	9.25	10.00	12.00
10	12	1.00	1.25	2.00	2.75	3.25	4.00	4.50	5.25	6.00	6.50	7.25	8.00	9.00	10.00	10.75	12.25	14.25
12	14	2.00	2.00	2.50	3.00	3.75	4.50	5.25	6.00	7.00	7.75	8.50	9.25	10.50	11.50	11.75	14.25	16.75
14	16	2.00	2.00	3.00	3.50	4.25	5.25	6.00	7.00	8.00	8.75	9.75	10.50	12.00	13.25	14.50	16.50	19.25
16	18	3.00	3.00	3.50	4.25	5.00	6.00	7.00	8.00	9.00	10.00	11.00	12.25	13.75	15.00	16.25	18.75	21.50
18	20	3.00	3.00	4.00	5.00	6.00	7.00	8.00	9.00	10.00	11.00	12.50	14.00	15.50	17.00	18.50	20.25	24.00

To use differential table for retained plasticizer. Schedule C is calculated for any plasticizer medium, with various columnar headings expressed in cents per pound cost of plasticizer material. Retained plasticizer means the amount of plasticizer remaining in the sheet after the plasticizing operation.

Example A. Find differential for sheet plasticized (10–12 percent) retained plasticizer at cost of 50 cents per pound. Solution: Read across table at line 10–12 percent to column 50. Differential is $6.50 hundredweight.

Example B. Find differential for sheet plasticized (8–10 percent) retained plasticizer but plasticizer is a combination of two materials, 60 percent at cost of 15 cents per pound and 40 percent at 40 cents per pound. Solution: Read across table at line 8–10 percent to column 15. This figure is $1.50. Multiply $1.50×60 percent, arriving at result $0.90 which is factor for first part of combination. Similarly move to column 40 finding figure $4.50. Multiply $4.50×40 percent, arriving at $1.80 which is factor for second part of combination. Add first factor $0.90 to second factor $1.80=$2.70 per hundredweight differential for the proposed plasticizer combination.

(k) *Other differentials.* All other differentials discounts and allowances not specifically established in this section shall be determined in accordance with your customary practice during the period January 25, 1951, to February 24, 1951, inclusive.

SEC. 7. *Sellers who cannot price under other sections.* If you are unable to determine your ceiling price for a grade of paper under any of the provisions of this regulation, you may apply in writing to the Director of Price Stabilization, Washington 25, D. C., for the establishment of a ceiling price. This application shall contain an explanation of why you are unable to determine your ceiling price under any other provision of this regulation; all of the information called for under section 5 of this regulation to the extent you are able to furnish it; and the method used by you to determine your proposed ceiling price. You may not sell the commodity until the Director of Price Stabilization notifies you, in writing of your ceiling price.

SEC. 8. *Rounding off prices involving fractions.* Fractions of a cent remaining after the total prices for a quantity sold to a particular purchaser have been calculated, shall be dropped if less than a half cent and may be increased to the nearest higher cent if a half cent or more.

SEC. 9. *Prices lower than ceiling prices.* Lower prices than those established by this regulation may be charged, demanded, paid or offered.

SEC. 10. *Adjustable pricing.* Nothing in this regulation shall be construed to prohibit your making a contract or offer to sell a commodity at:

(a) The ceiling price in effect at the time of delivery, or

(b) The lower of a fixed price or the ceiling price in effect at the time of delivery.

You may not, however, deliver or agree to deliver a commodity at a price to be adjusted upward in accordance with any increase in a ceiling price after delivery.

SEC. 11. *Taxes separately stated.* In addition to your ceiling price, you may collect the amount of any excise, sale or similar federal, state, or local taxes paid by you as such only if it has been your practice to state and collect such taxes separately from your selling price for the same or similar commodities. If such a tax is imposed by a law which is not effective until after the effective date of this regulation, or if any increase in such a tax is made subsequent to the effective date of this regulation, you may collect the amount of the tax actually paid as such by you, if not prohibited by the tax law. You must in all such cases state separately the amount of the tax.

SEC. 12. *Records and reports.* (a) On and after the effective date of this regulation, every person making sales, or exchanges or purchases of glassine or greaseproof papers shall, in addition to the base period records required by section 16 (a) of the General Ceiling Price Regulation, keep for inspection by the Office of Price Stabilization for so long as the Defense Production Act of 1950, as amended, is in effect and for a period of two years thereafter his records of each sale or exchange of glassine or greaseproof papers, showing the following:

(1) Date of sale or exchange.

(2) Name and address of the buyer.

(3) Quantity and grade of glassine or greaseproof sold or exchanged.

(4) Prices charged including shipping terms, premiums if any, and other terms of sale. Such records may be in the form of invoices.

(b) Persons required to keep records by paragraph (a) of this section shall keep such other records and shall submit such reports as the Director of Price Stabilization may from time to time require, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(c) With respect to each sale of paper covered by this regulation, the purchaser

shall be furnished with the information set out in subparagraphs (1), (2), (3) and (4) paragraph (a) of this section which may be in the form of an invoice.

SEC. 13. *Petitions for amendment.* Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of Price Procedural Regulation 1 as revised, issued by the Office of Price Stabilization, 16 F. R. 4974.

SEC. 14. *Prohibition*—(a) *Against transactions above ceiling prices.* On and after the effective date of this regulation, regardless of any contract or other obligation:

(1) You shall not sell or deliver any commodity subject to this regulation at a price exceeding your ceiling price as determined under this regulation.

(2) You shall not buy or receive any commodity subject to this regulation in the regular course of trade or business at a price exceeding your ceiling price as determined under this regulation.

(3) You shall not agree, offer, solicit, or attempt to do any of the foregoing.

SEC. 15. *Evasion.* Any practice which results in obtaining indirectly a higher price than is permitted by this regulation is a violation of this regulation. Such practices include, but are not limited to, devices making use of commissions, services, cross sales, transportation arrangements, premiums, discounts, special privileges, tie in agreements and trade understandings.

SEC. 16. *Enforcement.* Persons violating any provisions of this regulation are subject to the criminal penalties, civil enforcement actions and suits for treble damages, provided for by the Defense Production Act of 1950 as amended.

Effective date. This regulation shall become effective on October 3, 1951.

NOTE: The record-keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

SEPTEMBER 28, 1951.

[F. R. Doc. 51-11865; Filed, Sept. 28, 1951; 4:00 p. m.]

[General Ceiling Price Regulation, Supplementary Regulation 67]

GCPR, SR 67—NEW COSMETIC GIFT SETS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation 67 to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

Gift sets consisting of one or more cosmetics and, frequently, one or more accessories, packaged as a unit in a special gift container, are customarily marketed in the cosmetic industry at various times throughout the year and particularly for the Christmas trade.

This supplementary regulation applies to cosmetic gift sets for which the packager, that is, the brand owner, has not already determined his ceiling prices under the General Ceiling Price Regulation. It provides a special method, tailored to the customs of the industry, for the determination by the packager of his ceiling prices for such new cosmetic gift sets. It also provides for the establishment by the packager of a uniform retail ceiling price for each new gift set and a maximum suggested price for sales of the gift set by wholesalers to retailers. The uniform retail ceiling price applies to all sales of the gift set at retail. Each wholesaler determines his ceiling prices for sales to different classes of purchasers by applying his customary discounts to the maximum suggested price for sales by wholesalers to retailers established by the packager.

The coverage of this regulation is limited to gift sets containing cosmetics, the retail prices of which amount to at least 80 percent of the sum of the cost of the gift set container and the accessories in the set.

Under the formula established herein, the packager determines his discount on sales of the cosmetics contained in the gift set to that class of purchasers to whom he proposes to sell the gift set at the largest trade discount. He then computes the equivalent mark-up and applies this mark-up to the sum of (a) the cost of the accessories contained in the gift set multiplied by the factor 1.33, (b) the cost of the gift set container, and (c) the direct labor cost of assembling the gift set. To the amount so obtained, he adds the sum of the retail prices of the cosmetics contained in the gift set. The total is the uniform retail ceiling price for the gift set. The packager determines his own ceiling prices and a maximum suggested price for sales by wholesalers to retailers by applying to the uniform retail ceiling price of the gift set the customary discounts in effect on his cosmetics contained in the gift set. The packager's ceiling price to that class of purchaser to whom he sells the gift set at the largest discount from the retail ceiling price is thus, in effect, the sum of his ceiling prices for sales of the cosmetics contained in the gift set to the same class of purchaser plus (a) his cost of the accessories contained in the gift set increased by a mark-up of 33% and (b) his cost for the gift set container and the labor cost of assembling the gift set.

Where a packager has customarily marketed gift sets under a pattern of trade discounts different than the pattern of trade discounts applicable to his cosmetics, he may, in determining the mark-up factor and the ceiling prices for a gift set, use his customary pattern applicable to gift sets rather than the pattern applicable to his cosmetics sold separately.

These methods for the determination of ceiling prices are substantially the same as those provided for in section 24 of Maximum Price Regulation 393 issued in 1943 by the Office of Price Administration and reflect the customary method employed in the industry for pricing cosmetic gift sets. Cosmetic gift sets have customarily been resold by retailers at the packager's retail price. The ceiling prices established by this regulation are therefore generally in line with those established under the General Ceiling Price Regulation and resellers are permitted their customary mark-ups.

After computing ceiling prices for a new gift set under this regulation, the packager must file a report with the Director of Price Stabilization. The report required is similar to that required for gift sets under the Office of Price Administration's MPR 393, referred to above. The reported ceiling prices become established upon the expiration of 15 days from the date the report is received, unless the packager receives notice to the contrary within that period. The packager may not, as a general rule, sell or deliver a gift set until the ceiling prices for the set have become established. In view of the imminence of the customary period for deliveries of Christmas gift sets, the packager is permitted, for a period of three weeks from the effective date of the regulation, to make deliveries as soon as the required report has been submitted. However, in no case may the packager accept payment for a new gift set, and in no case may resellers sell or deliver a new gift set, until the ceiling prices for the gift set have become established, and packagers are required to notify resellers to that effect in connection with deliveries of a gift set made by them in advance of the establishment of the ceiling prices of the set.

MPR 393, referred to above, required notification of the ceiling prices of the gift set to be given by the packager to wholesalers, and required the packager to label each gift set to show the retail ceiling price. This regulation requires similar notification by packagers to wholesalers. However, a labeling requirement has been omitted to avoid delaying deliveries for the coming Christmas season. To fill the gap left thereby a provision has been substituted requiring that suppliers, both packagers and wholesalers, furnish notification of the ceiling prices of a new gift set to each reseller to whom they sell the gift set. It is expected that a labelling requirement will be added later to replace the notification which the present regulation requires be furnished to retailers.

This regulation, like MPR 393, permits the packager to establish as the uniform retail ceiling price an amount lower than that computed in accordance with the formula summarized above, subject to the condition that his own ceiling prices and the ceiling prices of any wholesalers through whom the gift set is distributed are correspondingly reduced. Where the packager establishes ceiling prices lower than those previously in effect, the reduced ceiling prices become effective as to resellers upon receipt by the reseller of notification of the change in ceiling prices and the new ceiling prices apply to all gift sets delivered to the reseller with or subsequent to his receipt of such notification.

This regulation applies to the continental United States. However, it does

not apply to imported cosmetic gift sets and it applies only to such exports and sales for export as are not at the time of sale covered by Ceiling Price Regulation 61—Exports, or any supplementary regulation thereto, nor by Ceiling Price Regulation 9, Supplementary Regulation 2. This regulation does not apply to any cosmetic gift set for which the packager, prior to October 3, 1951, had established his ceiling price for the sale of the gift set to one or more classes of purchaser.

FINDINGS OF THE DIRECTOR OF PRICE STABILIZATION

In the judgment of the Director of Price Stabilization the ceiling prices established by this supplementary regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

So far as practicable the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950; to prices prevailing during the period from May 24, 1950, to June 24, 1950, inclusive; and to relevant factors of general applicability.

In formulating this regulation the Director has consulted with representatives of industry to the extent practicable under the circumstances and has given consideration to their recommendations.

The effect of this regulation upon business practices, cost practices, and means or aids to distribution in the industry has been considered. It is believed that no major changes in such practices or methods have been effected. To the extent that the provisions of the regulation may operate to compel changes in such practices or methods, such provisions are necessary to prevent circumvention or evasion of the regulation and to effectuate the policies of the Defense Production Act of 1950, as amended.

REGULATORY PROVISIONS

Sec.

AUTHORITY: Sections 1 to 10 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this supplementary regulation does.* (a) This supplementary regulation applies only to new cosmetic gift sets, that is, to cosmetic gift sets for which the packager had not, prior to October 3, 1951, established a ceiling price. This supplementary regulation does not apply to any gift set for which the packager had, prior to that date, established his ceiling price for the sale of such gift set to one or more classes of purchaser.

(b) This supplementary regulation establishes ceiling prices of new cosmetic gift sets for both the packagers and all resellers of such gift sets. A method is provided for the determination by the packager of a uniform retail ceiling price and for the further determination by the packager, on the basis of the uniform retail ceiling price, of both his own ceiling prices to different classes of purchasers and a maximum suggested price for sales by wholesalers to retailers. Wholesalers then determine their ceiling prices to all classes of purchasers by applying their customary discounts to the maximum suggested price for sales by wholesalers to retailers. The uniform retail ceiling price applies to all sales at retail.

(c) Packagers must file the reports required by section 6 of this supplementary regulation and packagers and wholesalers must furnish their customers the notification provided for in section 7 of this supplementary regulation.

SEC. 2. *Applicability of this supplementary regulation*—(a) *Geographic applicability.* This supplementary regulation applies to the forty-eight States of the United States and the District of Columbia.

(b) *Imports.* This supplementary regulation does not apply to imported gift sets.

(c) *Exports, and sales for export.* This supplementary regulation applies to exports and sales for export only in the case of transactions which are not covered by Ceiling Price Regulation 61—Exports, or any supplementary regulation thereto, nor by Ceiling Price Regulation 9, Supplementary Regulation 2—Territories and Possessions.

SEC. 3. *Applicability of the General Ceiling Price Regulation to new cosmetic gift sets.* All provisions of the General Ceiling Price Regulation not inconsistent with the provisions of this supplementary regulation apply to new cosmetic gift sets, as defined in section 1 of this supplementary regulation, and as to such provisions this supplementary regulation shall be deemed a part of the General Ceiling Price Regulation.

SEC. 4. *Determination of ceiling prices by packagers of new gift sets.* If you are the packager of a new gift set, you determine your ceiling price, the uniform retail ceiling price, and the maximum suggested price for sales by wholesalers to retailers for such gift set in accordance with the following paragraphs of this section. Your determination of such ceiling prices is subject to the approval of the Director of Price Stabilization as provided in section 6 of this supplementary regulation.

(a) *Uniform retail ceiling price.* The uniform retail ceiling price of a new gift set is to be determined as follows:

(1) Multiply the acquisition cost of the accessories by 1.33.

(2) Add thereto the acquisition cost of the gift container and the direct labor cost of assembling the gift set.

(3) Multiply the resulting sum by a markup factor computed as follows: (i) For each of your packaged cosmetics contained in the gift set, determine the trade discount applicable to the retail price for such packaged cosmetic, as defined in section 8, to arrive at an amount equal to your ceiling price under the GCPR to that class of purchasers to which you propose to sell the gift set at the largest discount. If the trade discounts so determined are not the same for each of your packaged cosmetics contained in the gift set, you must determine the average of such discounts, weighted by the retail prices for the packaged cosmetics to which such discounts apply.

(ii) Subtract the trade discount determined in (i) from 100 and divide into 100:

$$\text{Mark-up factor} = \frac{100}{\text{100 minus trade discount}}$$

Example: Trade discount is 40%,

$$\text{Mark-up factor} = \frac{100}{\text{100 minus 40}} = 1.667$$

(4) To the amount computed under subparagraph (3) of this paragraph add the sum of the retail prices of the packaged cosmetics contained in the gift set. If the quantity of the cosmetic contained in any of the packaged cosmetics in the gift set differs from the quantity contained in the package of the same cosmetic previously sold, the retail price to be used for the new size for purposes of this computation is obtained by multiplying the retail price for the nearest old size by the ratio of the quantity in the new size to the quantity in the old size.

(5) The total obtained as provided in subparagraph (4) of this paragraph is the uniform retail ceiling price for such gift set, unless and until you establish a lower uniform retail ceiling price pursuant to the provisions of paragraph (e) of this section.

(b) *Maximum suggested price for sales by wholesalers to retailers.* If the gift set of which you are the packager is to be distributed through wholesalers, you determine the maximum suggested price for sales by wholesalers to retailers as follows:

(1) For each of your packaged cosmetics contained in the gift set, determine the trade discount applicable to the retail price for such packaged cosmetic to arrive at an amount equal to the price for the sale of such packaged cosmetic by wholesalers to retailers in the smallest quantity, as defined in section 8. If the trade discounts so determined are not the same for each of your packaged cosmetics contained in the gift set, you must determine the average of such discounts, weighted by the retail prices for the packaged cosmetics to which such discounts apply.

(2) Apply the trade discount so determined to the uniform retail ceiling price for the gift set determined as provided in paragraph (a) or (e) of this section. The result is the maximum price which you may suggest for the sale of the gift set by wholesalers to retailers.

(c) *Packager's ceiling prices.* As the packager of a new gift set, you will have a different ceiling price for each differ-

ent class of purchaser to whom you sell the gift set. Your ceiling price for the sale of a new gift set to a class of purchaser is determined as follows:

(1) For each of your packaged cosmetics contained in the gift set, determine the trade discount applicable to the retail price for such packaged cosmetic to arrive at an amount equal to your ceiling price under the General Ceiling Price Regulation for the sale of such packaged cosmetic to the same class of purchaser. If the trade discounts so determined are not the same for each of your packaged cosmetics contained in the gift set, you must determine the average of such discounts, weighted by the retail prices for the packaged cosmetics to which such discounts apply.

(2) Apply the trade discount so determined to the uniform retail ceiling price for the gift set, determined as provided in paragraph (a) or (e) of this section.

(3) Each ceiling price so determined shall be subject to the customary discounts, other than trade discounts, and to the customary allowances, trade practices, and other terms of sale which you have applied on sales of gift sets, or if none, on sales of packaged cosmetics comparable to those contained in the gift set, to purchasers of the same class during the period from January 1, 1950 to January 25, 1951, inclusive. If you did not sell any packaged cosmetics during that period, each of your ceiling prices for a new gift set shall be subject to the same terms of sale as those applicable to the ceiling prices of your most closely competitive seller of the same class for sales of new gift sets to the same class of purchaser.

(d) *Special discount pattern.* If during the period from January 1, 1950 to January 25, 1951, inclusive, you generally packaged and marketed gift sets under a pattern of trade discounts different than the pattern of trade discounts you used in marketing your packaged cosmetics contained in such gift sets, you may, if you so elect, in applying the provisions of paragraphs (a), (b), and (c) of this section, use the pattern of trade discounts under which you marketed gift sets in place of the pattern of trade discounts applicable to your packaged cosmetics. If you so elect, you shall include in your report under section 6 a statement that you are using the trade discount pattern which you generally used in marketing your gift sets from January 1, 1950 to January 25, 1951, inclusive, and submit evidence, such as copies of all your price lists for gift sets in effect during that period, which will indicate that you generally marketed gift sets under such pattern of trade discounts from January 1, 1950 to January 25, 1951, inclusive.

(e) *Packager's adjustment to lower ceiling prices.* As the packager of a gift set, you may at any time establish a lower uniform retail ceiling price for a gift set than that determined under paragraph (a) or (d) of this section if, at the same time, you establish proportionately lower ceiling prices for such gift set for yourself and a proportionately lower maximum suggested price for sales of such gift set by wholesalers to retailers. Such reduced ceiling prices for the gift set shall become established as provided in paragraph (c) of section 6 of this supplementary regulation. Such reduced ceiling prices shall become effective as to you as soon as they have become established. The reduced prices shall become effective as to resellers as provided in section 5 of this supplementary regulation.

SEC. 5. *Resellers' ceiling prices for new gift sets*—(a) *Sales at wholesale.* If you sell a new gift set at wholesale, you will have a different ceiling price for each different class of purchaser to whom you sell a new gift set. Your ceiling prices for the gift set are based upon the maximum suggested price for sales of the gift set by wholesalers to retailers established by the packager under section 6.

Your ceiling price to each class of purchaser is the price obtained by applying to the maximum suggested price for sales by wholesalers to retailers the customary discounts, including trade discounts, and the customary allowances, trade practices, and other terms of sale which you applied on sales of gift sets to purchasers of the same class during the period from January 1, 1950 to January 25, 1951, inclusive. If during such period you did not sell any gift sets, you must use the customary terms of sale which you applied during that period on sales of packaged cosmetics comparable to those contained in the gift set. If you did not sell any packaged cosmetics during such period, each of your ceiling prices for a new gift set shall be subject to the same terms of sale as those applicable to the ceiling prices of your most closely competitive seller of the same class for sales of new gift sets to the same class of purchaser.

Where the packager has reduced the maximum suggested price for sales of a gift set by wholesalers to retailers below the maximum suggested price previously established, the reduced maximum suggested price becomes effective as to you upon your receipt of notification of the reduced maximum suggested price and shall apply to your sales of such gift sets delivered to you with or subsequent to your receipt of such notification. Your ceiling prices for such sales shall be determined on the basis of the new maximum suggested price for sales by wholesalers to retailers as provided in the preceding paragraph.

(b) *Sales at retail.* If you sell a new gift set at retail, your ceiling price is the uniform retail ceiling price established by the packager under section 6. Where the packager has reduced the uniform retail ceiling price of a gift set below the ceiling price previously established, the new uniform retail ceiling price becomes effective as to you upon your receipt of notification of such reduced ceiling price and shall apply to your sales of such gift sets delivered to you with or subsequent to your receipt of the notification of the reduced ceiling price.

SEC. 6. *Reports.* (a) If you are the packager of one or more new gift sets, you must submit to the Director of Price Stabilization, Washington 25, D. C., by registered mail, return receipt requested, a report on OPS Public Form No. Pub. 96, for each new gift set which you propose to sell. You may not sell or deliver a new gift set until you receive notice from the Director of Price Stabilization that the ceiling prices which you have reported for that gift set are approved and established or until the ceiling prices for the gift set have become established as provided in paragraph (c) of this section: *Provided,* That prior to October 25, 1951, you may, after mailing the report required by this paragraph, deliver a new gift set in advance of the establishment of the ceiling prices therefor, but you may not accept payment for such gift set until you receive notice from the Director of Price Stabilization that the ceiling prices which you have reported for the gift set are approved and established or until the ceiling prices for the gift set have become established as provided in paragraph (c) of this section, and at such time you may not, of course, accept payment in an amount in excess of the ceiling price. In connection with advance deliveries made pursuant to the foregoing proviso, the notification required by paragraph (f) of section 7 must be given.

(b) If, as the packager of a new gift set, you wish, in accordance with paragraph (e) of section 4, to establish lower ceiling prices therefor than those which you have previously reported, you must file a report with the Director of Price Stabilization, Washington 25, D. C., by registered mail, return receipt requested, supplying the information specified below. Such lower ceiling prices shall not become effective until you receive notice from the Director of Price Stabilization that the lower ceiling prices which you have reported are approved and established or until such ceiling prices have become established as provided in paragraph (c) of this section. The report must state:

(1) The name and address of your company, and the date of the report.

(2) The name or other identification of the gift set.

(3) The date of earlier reports of ceiling prices for the gift set.

(4) The new uniform retail ceiling price which you propose to put into effect, the corresponding new suggested price for sales by wholesalers to retailers, and your own new ceiling price to each class of purchaser to whom you propose to sell the gift set.

(c) In acting on a report filed under paragraph (a) or (b) of this section, the Director of Price Stabilization may require you to supply any pertinent information not contained in your report; if in his judgment your report is incomplete, or any of the ceiling prices which you have reported has been improperly determined or is excessive, he may disapprove such ceiling price and, simultaneously or subsequently, establish a different amount as the ceiling price. If 15 days have elapsed since the date on which your report was filed, as shown by your return receipt, or 7 days in the case of a report of the reduction of ceiling prices previously established, and within such period you have not received from the Director of Price Stabilization notification of the disapproval

of any of the ceiling prices which you have reported, such ceiling prices shall be deemed established, provided that where the ceiling prices which you have reported have not yet become established, the Director of Price Stabilization, in connection with a request for further information, may notify you that such ceiling prices shall not be deemed to be established until a specified period after receipt of the requested information, or until further notice. In establishing ceiling prices for a gift set different than those reported under this section, the Director of Price Stabilization may require that any person who has notified resellers of the ceiling prices reported shall notify such resellers of the different amounts established as the ceiling prices of the gift set.

SEC. 7. *Notification*—(a) *Notification by packager selling directly to a retailer.* If you are the packager of a new gift set, you must, after ceiling prices for such gift set have become established pursuant to section 6, furnish to each retailer to whom you deliver or have delivered the gift set a notification in writing containing the information specified below. Such notification must be given with or prior to your first delivery of the gift set to the retailer, or, in the case of advance deliveries pursuant to paragraph (a) of section 6, immediately upon the establishment of ceiling prices for the gift set. The notification shall set forth:

(1) Your ceiling price for sales of the gift set to that class of retailer, designated as such.

(2) The uniform retail ceiling price for the gift set, designated as such.

(3) A statement that the OPS requires the retailer to keep the notification of the uniform retail ceiling price for inspection by any buyer during ordinary business hours.

(b) *Notification by packager selling to a wholesaler and by wholesaler selling to another wholesaler.* (1) If you are the packager of a new gift set, you must, after ceiling prices for such gift set have become established pursuant to section 6, furnish to each wholesaler to whom you sell the gift set a notification in writing containing the information specified in sub-paragraph (3) of this paragraph. Such notification must be given with or prior to your first delivery of the gift set to the wholesaler, or, in the case of advance deliveries pursuant to paragraph (a) of section 6, immediately upon the establishment of ceiling prices for the gift set.

(2) If you are a wholesaler of a new gift set for which the packager has established a uniform retail ceiling price, you must furnish to each wholesaler to whom you sell such gift set a notification in writing containing the information specified in sub-paragraph (3) of this paragraph; such notification must be given with or prior to your first delivery of the gift set to the wholesaler.

(3) The notification required by subparagraphs (1) or (2) of this paragraph shall set forth:

(i) Your ceiling price for sales of the gift set to that class of resellers, designated as such.

(ii) The maximum suggested price for sales by wholesalers to retailers, designated as such, and a statement that the wholesaler's ceiling prices for the sale of the gift set are determined as provided in section 5 of Supplementary Regulation 67 to the General Ceiling Price Regulation and that the wholesaler must furnish to his customers the notification provided for in section 7 of such supplementary regulation.

(iii) The uniform retail ceiling price of the gift set, designated as such.

(iv) A statement that the OPS requires that the wholesaler keep the notification of the uniform retail ceiling price and the maximum suggested price for sales by wholesalers to retailers for inspection by any buyer during ordinary business hours.

(c) *Notification by wholesaler to retailer.* If you are a wholesaler of a new gift set for which the packager has established a uniform retail ceiling price, you must furnish to each retailer to whom you sell such gift set a notification in writing containing the information specified in this paragraph. Such notification must be given with or prior to your first delivery of the gift set to the retailer and shall set forth:

(1) Your ceiling price for the sale of the gift set to that class of retailer, designated as such.

(2) The uniform retail ceiling price of the gift set, designated as such.

(3) A statement that the OPS requires that the retailer keep the notification of the uniform retail ceiling price for inspection by any buyer during ordinary business hours.

(d) *Notification by packagers and wholesalers of reduction in ceiling prices*—(1) *Packagers.* If you are the packager of a new gift set for which a uniform retail ceiling price has become established and you thereafter establish lower ceiling prices for the gift set, you must furnish to each reseller to whom you sell such gift set a notification in writing containing the information specified in this paragraph. Such notification must be given with or prior to your first delivery of the gift set to the resellers after the reduced ceiling prices have become effective as to you, as provided in paragraph (e) of section 4. Such notification shall include the information specified in paragraphs (a) or (b) of this section, whichever is applicable, with the reduced prices substituted for those previously established, and, in addition, shall include a statement that such ceiling prices are reduced ceiling prices and apply to gift sets delivered with, or subsequent to receipt of, the notification.

(2) *Wholesalers.* If you are a wholesaler of a new gift set and you have received a notification of the reduced ceiling prices of such gift set, you must furnish to each reseller to whom you sell the gift set a notification in writing containing the information specified in this paragraph. Such notification must be given with or prior to your first delivery to the reseller of gift sets delivered to you with or subsequent to your receipt of notification of the reduced ceiling prices of such gift set, and shall include the information specified in paragraph (b) or (c) of this section, whichever is applicable, with the reduced prices substituted for those previously established, and, in addition, shall include a statement that such ceiling prices are reduced ceiling prices and apply to gift sets delivered with, or subsequent to receipt of, the notification.

(e) *General provisions concerning notification of ceiling prices.* (1) The notification required by this section to be given by wholesalers to persons to whom they sell may consist of a form of notification containing the information required in paragraph (b), (c) or (d) of this section, whichever is applicable, prepared by the packager of the gift set and furnished by him to the wholesaler.

(2) If you are a reseller of a gift set and receive a notification pursuant to this section you must retain such notification during the life of the Defense Production Act, as amended, and for two years thereafter. You must keep the notification available for inspection upon the demand of any buyer made during ordinary business hours; however, before such inspection you may remove from the notification any reference to the ceiling price for sales by your supplier to yourself. If you are a retailer you must make the notification of the uniform retail ceiling price available for inspection by the buyer in the department where the gift set is sold.

(f) *Notification by packager making advance deliveries.* If you are a packager and, pursuant to the provisions of paragraph (a) of section 6, you deliver a new gift set before the establishment of the ceiling prices therefor, you must furnish to each person to whom you so deliver the gift set a written notification stating that at the date of the notification ceiling prices for the resale of the gift set had not been established and that no reseller may sell or deliver the gift set until such ceiling prices have been established. You may, if you wish, include in the notification a statement that any reseller may, nevertheless, enter into contracts for the sale of such gift set at the ceiling price in effect at the time of delivery under such contract, or at either a fixed price or the ceiling price in effect at the time of delivery under the contract, whichever at that time is lower. The notification required by this paragraph must be given with or prior to your first delivery of the gift set to each person to whom the gift set is delivered in advance of the establishment of the ceiling prices of the gift set.

SEC. 8. *Definitions.* When used in this supplementary regulation the term:

(a) "Cosmetic" means any product intended to be rubbed, poured, sprinkled or sprayed upon, or introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance. "Cosmetic" does not include any product for internal or external use intended to be used for the diagnosis, cure, mitigation, or prevention of diseases of man or other animals, or any product whose label indicates it may be for such use. Soaps are not cosmetics, but as used herein, the term

"cosmetic" includes shaving soaps and liquid shampoos.

(b) "Packaged" means prepared by or for a packager in a package of a size and type customarily sold at retail to individual consumers.

(c) "Packager" means the person who markets a packaged cosmetic or a cosmetic gift set under his own brand name.

(d) "Gift set" means a package containing one or more packaged cosmetics, with or without one or more accessories, in a container such as is customarily used for gift merchandise, which is to be sold under the brand name of the packager of one or more packaged cosmetics contained therein; and for which the sum of the retail prices of the packaged cosmetics contained therein is at least equal to 80 percent of the sum of the packager's acquisition costs for the accessories and gift set container. A package containing only a single packaged cosmetic and no accessories will not, however, be considered a gift set covered by this supplementary regulation unless the gift set container is of a type which has an independent and substantial use of its own and the packager continues to give purchasers an opportunity to buy the packaged cosmetic separately at or below the ceiling prices established therefor in accordance with General Ceiling Price Regulation.

(e) "Gift set container" means the container or packaging used to enclose the contents of a gift set.

(f) "Accessory" means any merchandise other than packaged cosmetics included in a gift set, such as scissors, nailfile, comb, mirror, powder puff, face tissues, and the like.

(g) "Acquisition cost." In the case of an accessory, "acquisition cost" means the net delivered cost to the packager of the accessory but not in excess of its ceiling price. In the case of a gift set container, "acquisition cost" means the net delivered cost to the packager of the gift set container, but not in excess of its ceiling price, less the net delivered cost to him of any containers, closures, cartons, or other packing not used in the preparation of the gift set but which are customarily used in the preparation of any of his packaged cosmetics contained in the gift set when such packaged cosmetic is marketed separately.

(h) "Retail price of a packaged cosmetic" means:

(1) The packager's suggested retail price in effect contemporaneously with the prices established as his ceiling prices for such packaged cosmetic by section 3 of the General Ceiling Price Regulation, or, if none,

(2) The retail price generally charged.

(i) "Price for sales of a packaged cosmetic by wholesalers to retailers in the smallest quantity" means:

(1) The packager's suggested price for such sales in effect contemporaneously with the prices established as his ceiling prices for such packaged cosmetic by section 3 of the General Ceiling Price Regulation, or, if none,

(2) The price generally charged by wholesalers on such sales.

(j) Unless the context otherwise requires, the definitions set forth in section 22 of the General Ceiling Price Regulation apply to this supplementary regulation.

SEC. 9. *Prohibitions on sales and deliveries of new gift sets by packagers and resellers prior to the establishment of ceiling prices*—(a) *Packagers.* If you are the packager of a new gift set, you shall not, except as provided in paragraph (a) of section 6, sell or deliver such gift set until the ceiling prices of such gift set have become established as provided in section 6.

(b) *Resellers.* If you are a reseller of a new gift set, you shall not sell or deliver such gift set until the ceiling prices of such gift set have become established as provided in section 6.

(c) *Adjustable pricing.* Nothing in this supplementary regulation shall be construed to prohibit a packager or reseller from making a contract or offer to sell a new gift set at (1) the ceiling price in effect at the time of delivery or (2) the lower of a fixed price or the ceiling price in effect at the time of delivery.

SEC. 10. *Sales below ceiling prices.* Any person may, of course, at any time sell a gift set at a price lower than the ceiling price established by this supplementary regulation.

Effective date. This supplementary regulation shall become effective on October 3, 1951.

NOTE: The record-keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

SEPTEMBER 28, 1951.

[F. R. Doc. 51-11862; Filed, Sept. 28, 1951; 4:00 p. m.]

Chapter XVIII — National Shipping Authority, Maritime Administration, Department of Commerce

[NSA Order 1 (AGE-1, Amdt. 1)]

AGE-1—GENERAL AGENTS, AGENTS AND BERTH AGENTS

MISCELLANEOUS AMENDMENTS

In accordance with the requirements of section 104 of the Renegotiation Act of 1951, this amendment 1 to NSA Order No. 1 (AGE-1), published in the FEDERAL REGISTER issue of March 28, 1951 (16 F. R. 2703), specifies that Service Agreements (GAA 3-19-51) between the United States of America, acting by and through the Director, National Shipping Authority of the Maritime Administration, Department of Commerce, and General Agents to manage and conduct the business of vessels of which the United States of America is owner or owner pro hac vice shall be deemed to contain all the provisions required by section 104 of the Renegotiation Act of 1951, approved March 23, 1951; and

Whereas, the Director, for the purpose of administration of said Agreement, deems that fees to sub-agents, branch houses and customs brokers, charges for postage and petties, and communication expenses, in the continental United States (each of which is classified as vessel operating expense under General Order No. 22 of the Maritime Administration), should be absorbed by the General Agent out of the compensation payable to the General Agent under the provisions of Article 4 of the Service Agreement and should not be considered as vessel operating expense for which the General Agent is entitled to credit under Article 5; and

Whereas, the Director deems it appropriate to issue the following Amendment 1 to NSA Order No. 1 (AGE-1):

Now, therefore, it is hereby ordered that NSA Order No. 1 (AGE-1)—General Agents, Agents and Berth Agents is amended as follows:

1. By adding a new paragraph to section 1. *Definitions* to read:

(e) *Continental United States.* The "continental United States" includes only the forty-eight states of the United States and the District of Columbia; and

2. By adding at the end thereof a new section to read:

SEC. 3. *Addendum to GAA 3-19-51.* Each General Agent holding a Service Agreement (GAA 3-19-51) shall be required to execute an addendum to the Service Agreement in the form as follows:

Contract No. MA-
Addendum No. 1

This addendum dated as of the _____ day of _____, 1951, between the United States of America (herein called the "United States"), acting by and through the Director, National Shipping Authority of the Maritime Administration, Department of Commerce, and _____ (herein called the "General Agent"),

WITNESSETH

Whereas, the United States and the General Agent heretofore and as of the _____ day of _____, 1951, executed a General Agency Agreement, Contract MA-_____ (herein called the "Agreement"); and

Whereas, Article 15 (d) of the Agreement provides for the modification thereof at any time by mutual consent; and

Whereas, Section 104 of the Renegotiation Act of 1951 (Pub. Law 9, 82d Cong., 1st Sess.) makes it mandatory that each such Agreement entered into by the Department of Commerce shall be subject to the provisions thereof; and

Whereas, the parties desire to amend the Agreement to conform with the aforementioned mandate of the Renegotiation Act of 1951; and

Whereas, the United States and the General Agent have agreed, for the purpose of administration of this Agreement, that fees to sub-agents, branch houses and customs brokers, charges for postage and petties, and communication expenses, in the continental United States, (each of which is classified as vessel operating expense under General Order No. 22 of the Maritime Administration) shall be deemed to be included in the compensation payable to the General Agent under the provisions of Article 4 of the Service Agreement and shall not be considered as vessel operating expense for which the General Agent is entitled to credit under Article 5; and have agreed to the amendment of Articles 4 and 5 by the execution of this addendum.

Now, therefore, in consideration of the premises, the parties hereto agree that the Agreement be, and hereby is, modified by:

1. The addition of the following Article:

ARTICLE 20. *Renegotiation.* This Agreement shall be deemed to contain all the provisions required by section 104 of the Renegotiation Act of 1951.

The contractor (which term as used in this sentence means the party contracting to perform the work or furnish the materials required by this Agreement) shall, in compliance with said section 104, insert the provisions of this Article in each subcontract and purchase order made or issued in carrying out this contract.

2. The amendment of Article 4 to read as follows:

Article 4. *Compensation.* At least once a month the United States shall pay to the General Agent compensation for the General Agent's services hereunder, and, after redelivery of the vessels assigned hereunder, shall also pay to the General Agent compensation for services required thereafter. All such compensation shall be in such fair and reasonable amount as the United States shall from time to time determine by National Shipping Authority Order. Such compensation shall be deemed to cover the General Agent's administrative and general expense (as presently itemized in General Order No. 22 of the Maritime Administration) and also fees to sub-agents, branch houses and customs brokers, charges for postage and petties, and communication expenses, in the continental United States, advertising expenses, taxes (other than taxes for which the General Agent is credited under Article 5 hereof), and any other expenses which are not directly applicable to the activities, maintenance and business of the vessels assigned hereunder.

3. The amendment of the first paragraph of Article 5 to read as follows:

Article 5. *Disbursements.* The United States shall advance funds to the General Agent to provide for, and the General Agent shall receive credit for all expenditures of every kind made by it in performing, procuring or supplying the services, facilities, stores, supplies or equipment as required hereunder, excepting the items of expense as are deemed to be covered by the compensation provided for in Article 4 hereof, provided that the General Agent shall receive credit for sales and similar taxes or foreign taxes of any kind to the extent classifiable as vessel operating expense under said General Order No. 22, if the General Agent shall have used due diligence to secure immunity from such taxation. The United States shall also advance funds to the General Agent to provide for, and the General Agent shall receive credit for, all crew expenditures accruing during the term hereof in connection with the vessels assigned hereunder, including, without limitation, expenditures on account of wages, extra compensation, overtime, bonuses, penalties, subsistence, repatriation, internment, travel, loss of personal effects, maintenance and cure, vacation allowances, damages or compensation for death or personal injury or illness, insurance premiums, Social Security taxes, state unemployment insurance taxes and contributions made by the General Agent to a pension or welfare fund with respect to the period of this Agreement and in accordance with a pension of welfare plan in effect on the effective date of this Agreement or which, pursuant to the collective bargaining agreements, may become effective during the period of this Agreement with respect to the officers and members of the crew of said vessels who are or may become entitled to benefits under such plan, or any other payment required by law.

Except as herein specifically otherwise provided, all the terms and obligations of said Service Agreement shall remain in full force and effect.

In witness whereof, the parties hereto have executed this Addendum in triplicate as of the day and year first above written.

UNITED STATES OF AMERICA,

By ----------

[CORPORATE SEAL] *Director National Shipping Authority, Maritime Administration, Department of Commerce.*

Attest:

Secretary

By: ----------

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114. Interpret or apply sec. 104 Pub. Law 9, 82d Cong.)

Approved: September 19, 1951.

[SEAL] C. H. MCGUIRE,
Director,
National Shipping Authority.

[F. R. Doc. 51-11757; Filed, Sept. 28, 1951; 8:50 a. m.]

[NSA Order 47 (AGE-4)]

AGE-4—GENERAL AGENTS' COMPENSATION

Sec.

1. What this order does.
2. Compensation of General Agents for husbanding services, etc.
3. Compensation of General Agents for conducting the business of the vessels.
4. Compensation of sub-agents at ports outside the continental United States.
5. Definitions as used in this order.
6. Communication expenses.
7. Compensation of Generals Agents for liquidating the activities and business of vessels.
8. Increases and reductions of compensation under certain circumstances.
9. Accounting.
10. Effective date.

AUTHORITY: Sections 1 to 10 issued under sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114.

SECTION 1. *What this order does.* This order prescribes the amount of compensation payable to General Agents of the National Shipping Authority for services rendered in connection with the husbanding and conduct of the business of dry-cargo vessels assigned to a General Agent under the standard form of Service Agreement, GAA 3-19-51.

SEC. 2. *Compensation of General Agents for husbanding services, etc.* (a) Except as otherwise provided, the General Agent who performs services in connection with the husbanding of the vessels and services related thereto, acts as accounting line in connection therewith, and performs duties for which no compensation is provided in other sections of this order, shall be compensated at the rate set forth below, out of which the General Agent shall pay his sub-agents, branch houses, charges for postage and petties and customs brokers in the continental United States, and also any items of expense not authorized for inclusion in the vessel operating expenses: $75.00 per day per vessel for each dry-cargo vessel.

(b) Upon the redelivery or total loss (not constructive total loss) of a vessel allocated to a General Agent under the Service Agreement, the compensation authorized in paragraph (a) of this section shall terminate.

(c) In determining the compensation provided in this section, part days shall be counted as whole days.

SEC. 3. *Compensation of General Agents for conducting the business of the vessels.* Except as otherwise provided, the General Agent who performs services in connection with the business of the vessels, acts as accounting line in connection therewith, and performs duties for which no compensation is provided in other sections of this order, shall be compensated at the rates set forth below, out of which the General Agent shall pay his sub-agents, branch houses, charges for postage and petties and customs brokers in the continental United States, and also any items of expenses not authorized for inclusion in the vessel operating expenses:

(a) *Bulk cargo loaded or discharged in United States continental ports.* 1¼% of vessel's revenue.

(b) *Passengers, military personnel, mail, express and ad valorem.* In an amount to be determined by the Director and prescribed in a supplement to this order.

(c) *Employment exclusively in service of Military Sea Transportation Service.* $25.00 per day per vessel for the period of employment in the service of MSTS.

(d) *Compensation for services incident to way cargo, passengers and mail.* 50% of the rates as provided in paragraphs (a) and (b) of this section.

(e) *Miscellaneous.* If a vessel loads cargo at a port outside the continental United States and is lost prior to arrival at the port of destination of the cargo, the General Agent responsible for the cargo business shall be paid one fee of 50 percent of the rates as provided in paragraph (a), (b) or (d) of this section, whichever is applicable.

SEC. 4. *Compensation of sub-agents at ports outside the continental United States.* Except where a schedule of fees has been approved by the Director, as compensation for services in connection with the vessel rendered by sub-agents or branch houses outside the continental United States, the General Agent may pay for the account of the United States, the prevailing commercial rates, subject to approval of the Director.

SEC. 5. *Definitions as used in this order.*—(a) *General Agent.* A "General Agent" is a person, firm or corporation designated as General Agent under the standard form of Service Agreement, GAA 3-19-51.

(b) *Sub-agent.* A "sub-agent" is a person, firm or corporation appointed by a General Agent to perform any of the functions of the General Agent under the standard form of Service Agreement, GAA 3-19-51.

(c) *Passenger.* A "passenger" is a person transported on a vessel other than members of the gun crew, the Master, licensed and unlicensed personnel of the vessel and military personnel.

(d) *Military personnel.* "Military personnel" includes members of the Armed Forces of the United States or its allies, prisoners of war, enemy aliens or involuntary passengers traveling under

supervision and direction of the Department of Defense and such other persons as may be sponsored by and traveling for the account of the Department of Defense.

(e) *Bulk cargo.* "Bulk cargo" is cargo not entirely hand stowed, such as bulk cargoes of grain, ores, coal, etc., and other cargo, which may or may not be entirely hand stowed, such as sugar, lumber, etc., carried under charter party and not shipped under berth terms.

(f) *Ad valorem cargo.* "Ad valorem cargo" is cargo transported at a percentage rate based on the value of the cargo.

(g) *Express.* "Express" shipments are considered to be cargo for the purposes of this order.

(h) *Continental United States.* The "continental United States" includes only the forty-eight states of the United States and the District of Columbia.

(i) *Way.* "Way" cargoes, passengers and mail means cargo, passengers and mail loaded and discharged at ports outside the continental United States.

(j) *Vessel's revenue.* "Vessel's revenue" is the gross ocean revenue (freight or passenger) accruing to the vessel, including freight, dead freight and demurrage.

SEC. 6. *Communication expenses.* (a) All cablegrams, telegrams and radiograms that pertain directly and exclusively to the business of the United States, dispatched by General Agents and their branch houses and domestic and foreign sub-agents between the continental United States and points outside of the continental United States, shall be for the account of the United States and the cost thereof shall be included in the vessel operating expenses. All telegrams, cablegrams and radiograms that pertain directly and exclusively to the business of the United States dispatched by foreign sub-agents and branch houses, shall be for the account of the United States and the cost thereof shall be included in the vessel operating expenses. Except as provided in this section, communication expenses shall be absorbed by the General Agent out of the compensation paid under this order.

(b) Postage or express charges incurred in sending ships' disbursements accounts, manifests and other cargo or ship documents to and from the continental United States, or between foreign ports, may be included in the vessel operating expenses as reimbursable items of expense.

SEC. 7. *Compensation of General Agents for liquidating the activities and business of vessels.* After the redelivery or total loss of vessels, assigned to General Agents under the standard form of Service Agreement, GAA 3-19-51, each General Agent shall be paid for liquidating the activities and business of such vessels in an amount to be determined by the Director and prescribed in a supplement to this order.

SEC. 8. *Increases and reductions of compensation under certain circumstances.* (a) If the rates provided in this order, with respect to a General Agent or his sub-agents and branch houses are found by the Director not to represent fair and reasonable compensation for the services required to be performed by the General Agent, sub-agent or branch house under the Service Agreement, based on the fair and reasonable cost of performing such services as determined by the Director on the basis of maximum reasonable efficiency and economy of operations, then the Director at his discretion, but without discrimination as between General Agents, sub-agents or branch houses for similar services, may adjust such compensation in such amount as he shall determine to be fair and reasonable under the circumstances.

(b) In addition to the compensation elsewhere provided in this order, the Director shall provide compensation in such amount as he shall determine to be fair and reasonable under the circumstances for extraordinary services heretofore or hereafter rendered by a General Agent or sub-agent or branch house which the Director finds were not intended to be covered by the compensation provided for in this order.

(c) The Director reserves the right to make equitable reductions of compensation with regard to any vessel or vessels after the date as of which such vessel or vessels are determined by the Director to be a constructive total loss. No compensation shall be allowed for any period of time lost by reason of the gross negligence of the General Agent as determined by the Director.

(d) The Director reserves the right to exempt from the provisions of sections 1 to 7 inclusive, specific activities which the Director finds are not within the scope of said sections, and to determine the fair and reasonable compensation to be paid in such cases without discrimination as between General Agents for similar services.

(e) The Director reserves the right to amend, modify or to terminate sections 1 to 9 inclusive.

SEC. 9. *Accounting.* (a) The payment and adjustment of the compensation provided in sections 1 to 8 inclusive, shall be subject to compliance by the General Agent with all and singular the terms and conditions of the Service Agreement and of such rules and regulations appertaining thereto as have been or, from time to time, may be issued by the National Shipping Authority, including but not limited to fiscal instructions to be observed in billing such compensation.

(b) Each General Agent subject to this order who has another contract with the Maritime Administration which gives the Maritime Administration the right to determine the amount of overhead expenses allocable to such contract (including but without limitation bareboat charter agreements and operating-differential subsidy contracts) may at the discretion of the General Agent allocate not more than 20 percent of the total compensation earned under sections 2, 3 and 8 of this order to NSA agency operations of the General Agent, in which case the remainder (but not less than 80 percent) of the total compensation earned under sections 2, 3 and 8 of this order, shall be deducted from the total overhead expenses of the General Agent before allocation of such expenses to his respective other operations, i. e., private vessel operations, bareboat charter agreements, operating-differential subsidy contract and agency operations other than NSA.

(c) For the purpose of making computations under paragraph (b) of this section, agency fees and commissions paid by the General Agent to sub-agents and branch houses, charges for postage and petties and customs brokerage charges pursuant to section 3 and communication expenses pursuant to section 6 which are to be absorbed by the General Agent under this order, shall be treated as administrative and general expense of the General Agent.

SEC. 10. *Effective date.* Unless otherwise provided, this order shall become effective as of March 20, 1951, at 00:01 a. m., and as to each vessel as of the date of delivery to the General Agent under Service Agreement. GAA 3-19-51.

Approved: September 20, 1951.

[SEAL] C. H. MCGUIRE,
Director,
National Shipping Authority.

[F. R. Doc. 51-11750; Filed, Sept. 28, 1951; 8:48 a. m.]

Chapter XXI—Office of Rent Stablization, Economic Stabilization Agency

[Rent Regulation 3, Amdt. 1 to Schedule A]

RR 3—HOTEL REGULATION

SCHEDULE A—DEFENSE RENTAL AREA

CALIFORNIA, GEORGIA AND MISSOURI

Amendment 1 to Schedule A of Rent Regulation 3—Hotel Regulation. Said regulation is amended in the following respect:

In Schedule A, Items 39, 40, 80, and 172 are added as follows:

Name of defense-rental area	State	County or counties in defense-rental area under Rent Regulation 3	Maximum rent date	Effective date of regulation
(39) San Luis Obispo	California	San Luis Obispo	Aug. 1, 1950	Sept. 27, 1951
(40) Santa Maria	do	In Santa Barbara, Judicial Townships Numbers 4, 5, 8, and 9.	do	Do.
(80) Valdosta	Georgia	Lowndes	Apr. 1, 1951	Do.
(172) Rolla-Waynesville	Missouri	Laclede, Phelps, and Pulaski	Aug. 1, 1950	Do.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Supp. 1894)

This amendment shall be effective September 27, 1951.

Issued this 26th day of September 1951.

TIGHE E. WOODS,
Director of Rent Stabilization.

[F. R. Doc. 51-11747; Filed, Sept. 26, 1951; 12:40 p. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 29]

TOBACCO INSPECTION

ANNOUNCEMENT OF REFERENDUM IN CONNECTION WITH PROPOSED DESIGNATION UNDER TOBACCO INSPECTION ACT OF TOBACCO AUCTION MARKET OF MOUNTAIN CITY, TENNESSEE

Pursuant to the authority vested in the Secretary of Agriculture by The Tobacco Inspection Act (7 U. S. C. 511 et seq.) and in accordance with the applicable regulations (13 F. R. 9474–9479) issued thereunder by the Secretary, notice is given that a referendum of tobacco growers will be conducted from October 11 through October 13, 1951, to determine whether growers favor the designation of the Mountain City, Tennessee, tobacco auction market for free and mandatory inspection of tobacco sold thereon.

Growers who sold tobacco on the aforesaid market during the 1950–51 marketing season shall be eligible to vote in said referendum. Ballots for use in said referendum will be mailed to all eligible voters insofar as their names and addresses are known. Eligible voters who do not receive ballots by mail may obtain them from the county agent or the office of the county PMA committee at Mountain City.

All completed ballots shall be mailed to the Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture, P. O. Box 480, Louisville, Kentucky, and, in order to be counted in said referendum, must be postmarked not later than midnight, October 13, 1951.

Issued this 26th day of September 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-11762; Filed, Sept. 28, 1951; 8:50 a. m.]

[7 CFR Part 930]

[Docket No. AO-72-A16]

HANDLING OF MILK IN THE TOLEDO, OHIO, MARKETING AREA

DECISION WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND PROPOSED AMENDMENTS TO THE ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended (7 CFR Part 900), a public hearing was conducted at Toledo, Ohio, on June 19, 1951, pursuant to notice thereof which was issued on June 12, 1951, (16 F. R. 5704).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on August 31, 1951, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on September 7, 1951 (16 F. R. 9094).

The material issues of record related to:

(1) An increase in the Class I price differential in certain months.

(2) Adoption of a provision whereby Class I and Class II prices are increased or decreased as the ratio of producer milk receipts to Class I utilization indicates a shortage or over-supply of milk.

(3) Classification of concentrated milk for fluid consumption as Class I.

Findings and conclusions. The following findings and conclusions on the material issues decided herein are hereby made on the basis of the record of the hearing:

(1) The Class I price differential should not be increased.

It was proposed that the Class I price differential be increased from $1.20 to $1.30 in the months of September, October, November, December, January and February. Such an increase is needed, proponents claimed, to encourage production of more milk in the short supply months and to promote more even seasonal production.

A proposal to increase the Class I price differentials was considered at a hearing held on June 1, 1950. It was concluded that for the months of September through February the differential should be increased 15 cents and for certain other months 5 cents, and that the differentials so adjusted were appropriate to reflect market conditions and to insure an adequate supply of milk. The order was so amended effective March 1, 1951, and the higher Class I prices for the September–February period have not yet become effective. Record information does not permit the conclusion that such prices are not high enough to insure an adequate supply of milk. Another proposal (discussed below as issue (2)) would provide for a Class I price increase if the supply of producer milk is inadequate. Since a higher Class I price already has been provided for the September–February period and in view of the action proposed in connection with issue (2) it is concluded that the Class I price differentials should not be changed.

(2) A supply-demand provision should be adopted to increase or decrease the Class I and Class II prices in the event of a shortage or oversupply of producer milk.

Although the present provisions for establishing Class I and Class II prices have usually resulted in appropriate prices, conditions have arisen in the past which necessitated hearings to amend such provisions in order to keep supply in proper alignment with demand. Such a procedure is time consuming and it is expected that the proposed amendment will tend toward the need for fewer hearings because of more prompt and timely automatic adjustments in these prices.

It is difficult to predict with accuracy whether the market will be adequately supplied with milk in the forthcoming fall and winter. If the market is adequately supplied, the proposed amendment will have little or no effect on Class I and Class II prices, but if the supply is short the proposed amendment will increase Class I and Class II prices and be an incentive for a larger supply. Assurance to producers that prices will be changed promptly in response to any change in the relationship between market supply and demand for milk should encourage them to continue to supply milk to the market.

It is concluded that the measure of the current relationship between market supply and market demand should be based on the ratio of gross Class I and Class II utilization to total receipts from producers in a two-month period comprising the second and third months preceding the month for which a price is being computed. Many factors affect market supply and demand, but gross Class I and Class II utilization and total receipts from producers reflect the net effect of all these factors. Extension of recent changes appears to be the most accurate means of estimating current and prospective supply and demand conditions. Class I and Class II volumes should be used as a measure of market demand because pursuant to local health regulations, all products contained in those classes must be made from milk produced in compliance with such regulations.

Use of a two month period is desirable in order to reflect quickly any change in supply or demand. However, an adjustment based on a short period of this kind may to some extent reflect random changes in utilization which are not indicative of actual trends. It is necessary, therefore, to provide for some method of stabilizing this adjustment and of limiting it as to total magnitude. This has been accomplished by grouping the utilization percentages and setting limits on the amount of the adjustment. The percentage groups are in such intervals that no utilization adjustment occurs until utilization is 3 or 4 percentage points above or below the base period utilization. The next percentage group applies to utilization differences of 6 or 7 percent. In the case of any utilization difference falling between groups, the adjustment amount is determined by the adjacent group which is the same as or nearest to the percentage group used in the previous month. For example, a utilization difference of 5 percent from the base would call for use of the group which includes 3 or 4 percent if the adjustment during the previous month had been determined by that group or a lower one. On the other hand, a 5 percent utilization difference would call for an

adjustment based on 6 or 7 percent if the adjustment during the previous month had been determined by the 6 and 7 percent group or a higher one. The maximum adjustments provided for are 25 cents, 38 cents and 50 cents per hundredweight.

Use of the second and third preceding months will permit announcement each month of the effect on Class I and Class II prices of these provisions prior to the beginning of the month. Thus handlers will know in advance how much prices will be changed each month by these provisions.

The provisions for adjusting Class I and Class II prices should be constructed in such a manner that no price adjustment results when market supply and demand are in proper balance—that is, when the market is adequately supplied. Review of market statistics indicates that market supply in relation to demand was constantly improving in the period following World War II and prior to the Korean crisis. However, the wartime shortages apparently were not rectified as rapidly in Toledo as in most other Ohio markets regulated by orders. The 12 months preceding the Korean crisis, June 1949 through May 1950, was a period when market supply and demand were in reasonably close adjustment. During each of these 12 months some milk from sources other than producers was classified in Class I, but in October 1949, the month in which other source milk was classified in Class I to the greatest extent, less than five percent of the gross Class I volume was milk from other sources. In that month, and in every other month of the 12-month period, the volume of producer milk classified in Class III was much larger than the volume of other source milk classified in Class I. The provisions of the order concerning allocation of skim milk and butterfat permit other source milk under certain conditions to be allocated to Class I even though producer milk may actually have been available for such uses. It is therefore concluded that the relationship between market supply and demand which existed during this 12-month period should be used as a standard of proper balance between market supply and demand.

The ratio of gross Class I and Class II utilization to total receipts from producers during each two month period of the June 1949 through May 1950 period is as follows:

2-month periods of the June 1949 through May 1950 period	Ratio (percent)	Month during which such ratio would be used in computing prices
January and February	83	April.
February and March	83	May.
March and April	81	June.
April and May	78	July.
May and June	76	August.
June and July	80	September.
July and August	86	October.
August and September	90	November.
September and October	93	December.
October and November	95	January.
November and December	92	February.
December and January	86	March.

If the comparable ratio in the second and third months preceding the month for which prices are being computed varies from those shown above, the price should be adjusted in the same direction—upward if the current ratio exceeds the one shown above, and downward if the reverse is true. For each percentage point of variation, the Class I and Class II prices should change as follows: 2 cents upward and 4 cents downward during each of the months of April through July; 3 cents during each of the months of August, September, January, February and March; and 4 cents upward and 2 cents downward during each of the months of October through December. Analysis of Class I and II prices and the ratio of gross Class I utilization to total receipts from producers shows that in recent years the proposed adjustment would have resulted in reasonable prices. It should continue to do so. Seasonally varying adjustments should give additional incentive toward reducing the seasonal variation in receipts from producers. In order to prevent the occurrence of a "counter-seasonal" variation in the adjusted Class I differential it should be provided that the adjusted Class I differential for the month of July and August shall not be more than the adjusted differential for the immediately preceding month of June plus 25 cents, and the adjusted Class I differential for the month of September shall not be more than the adjusted differential for the immediately preceding month of June plus 45 cents; and the adjusted Class I differential for each of the months of December, January and February shall not be less than the adjusted differential for the immediately preceding month of November. In the first month in which the amending order providing this adjustment is effective, if the applicable deviation percentage falls between groups, the adjustment amount shall be determined by the group nearest to a deviation percentage calculated without rounding the current supply-demand percentage to the nearest whole number.

Ruling. Within the period reserved for filing exceptions to the recommended decision, exceptions were submitted on behalf of interested parties. These exceptions have been fully considered and to the extent to which the findings and conclusions of this decision are at variance with the exceptions, such exceptions are hereby overruled.

Determination of representative period. The month of June 1951, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of amendments to the order regulating the handling of milk in the Toledo, Ohio, marketing area in the manner set forth in the attached amending order is approved or favored by producers who during such period were engaged in the production of milk for sale in the marketing area specified in such marketing order, as hereby amended.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Toledo, Ohio, Marketing Area," and "Order Amending the Order, as amended, Regulating the Handling of Milk in the Toledo, Ohio, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered that all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C. this 26th day of September, 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order[1] *Amending the Order, as Amended, Regulating the Handling of Milk in the Toledo, Ohio, Marketing Area*

§ 930.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Toledo, Ohio, on June 19, 1951, upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Toledo, Ohio, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

in the said marketing area and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Toledo, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete § 930.41 (a) and substitute therefor the following:

(a) Class I milk shall be all skim milk and butterfat (1) disposed of in fluid form as milk, skim milk or buttermilk, except for livestock feed; or flavored milk or flavored milk drinks; (2) used to produce concentrated milk disposed of for fluid consumption; and (3) not accounted for as Class II milk or Class III milk.

2. Delete § 930.50 (a) (2) and substitute therefor the following:

(2) The price for Class I milk shall be the amount computed pursuant to subparagraph (1) of this paragraph plus or minus a "supply-demand adjustment" computed as follows:

(i) Divide the total gross volume of Class I and Class II milk (less interhandler transfers) in the second and third months preceding by total receipts of milk from producers during the same two months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the "utilization percentage."

(ii) Compute a "deviation percentage" by subtracting from the utilization percentage as computed in subdivision (i) of this subparagraph, the "standard utilization percentage" shown in this subdivision:

Month for which the price is being computed:	*Standard utilization percentage*
January	95
February	92
March	86
April	83
May	83
June	81
July	78
August	76
September	80
October	86
November	90
December	93

(iii) Determine the amount of the supply-demand adjustment from the following schedule:

If deviation percentage is—	Supply-demand adjustment for specified months is—		
	Jan., Feb., Mar., Aug. and Sept.	Apr., May, June, and July	Oct., Nov., and Dec.
	Cents	*Cents*	*Cents*
+12 or over	+38	+23	+50
+9 or +10	+28	+19	+38
+6 or +7	+20	+13	+26
+3 or +4	+10	+7	+14
+1 or −1	0	0	0
−3 or −4	−10	−14	−7
−6 or −7	−20	−26	−13
−9 or −10	−28	−38	−19
−12 or −13	−38	−50	−25
−15 or −16	−38	−50	−31
−18 or −19	−38	−50	−37
−21 or −22	−38	−50	−43
−24 or under	−38	−50	−50

When the deviation percentage does not fall within the tabulated brackets the adjustment shall be determined by the adjacent bracket which is the same as or nearest to the bracket used in the previous month: *Provided,* That the Class I differential adjusted pursuant to this subparagraph for each of the months of July and August shall not be more than such adjusted differential for the immediately preceding month of June plus 25 cents; and for the month of September the Class I differential adjusted pursuant to this subparagraph shall not be more than such adjusted differential for the immediately preceding month of June plus 45 cents; and the Class I differential adjusted pursuant to this subparagraph for each of the months of December, January and February shall not be less than the adjusted differential for the immediately preceding month of November.

3. Delete the schedule in § 930.50 (c) and substitute therefor the following:

Company and Location

Pet Milk Co., Delta, Ohio.
Defiance Milk Products Co., Defiance, Ohio.
Pet Milk Co., Hudson, Mich.

[F. R. Doc. 51-11741; Filed, Sept. 28, 1951; 8:47 a. m.]

[7 CFR Part 928]

[Docket No. AO-227]

HANDLING OF MILK IN NEOSHO VALLEY (KANSAS-MISSOURI) MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed order regulating the handling of milk in the Neosho Valley (Kansas-Missouri) marketing area.

Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 7th day after the publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. Public hearings on the record of which the proposed marketing agreement and the proposed order were formulated were called by the Production and Marketing Administration, United States Department of Agriculture. The initial public hearing was held in Chanute, Kansas, on November 13 to 17, 1950, inclusive, pursuant to a notice duly published in the FEDERAL REGISTER (15 F. R. 7186), following receipt of a petition filed by the Southeast Kansas Grade A Milk Producers Association, Chanute, Kansas (now known as the K. M. O. Milk Producers Association). A recommended decision was issued March 28, 1951 (16 F. R. 2841), and opportunity given to file written exceptions thereto. Subsequently the hearing was reopened on June 12, 1951, and July 9, 1951, pursuant to notices published in the FEDERAL REGISTER (16 F. R. 5135; 16 F. R. 5497; 16 F. R. 6000) for the purpose of receiving additional evidence with respect to the proposed marketing agreement and order and to receive evidence concerning additional proposals with respect to the extent of the marketing area.

The material issues considered at the hearings were concerned with the following:

A. Whether the handling of milk in the Neosho Valley marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk or its products:

B. Whether marketing conditions justify the issuance of a marketing agreement or order regulating the handling of milk in the Neosho Valley marketing area; and

C. If issuance of such an agreement or order is justified, what its provisions should be.

The evidence on this last issue involved the following:

(1) The extent of the marketing area;

(2) The definition of "producer," "handler," "approved plant," "other source milk," and other terms;

(3) The classification and allocation of milk;

(4) The determination and level of class prices;

(5) Payments to producers;

(6) Administrative provisions necessary to carry out the foregoing provisions.

Findings and conclusions. Upon the basis of the evidence adduced at the hearings, it is hereby found and concluded that:

A. The handling of milk produced for the Neosho Valley marketing area is in

the current of interstate commerce and directly burdens, obstructs, or affects interstate commerce in milk and its products.

The marketing area as hereinafter proposed would include certain specified areas in the States of Kansas and Missouri. Handlers located in the Missouri towns within the proposed area purchase milk in competition with handlers located in the State of Kansas. Such milk, so purchased and bottled in the State of Missouri, is sold on routes and through stores in both Missouri and Kansas. Handlers located in the Kansas portion of the proposed area purchase milk in the States of Oklahoma, Kansas, and Missouri. Milk so purchased is bottled in handlers' plants located in the State of Kansas and is disposed of on routes and through stores in the States of Kansas, Oklahoma, and Missouri. Milk purchased in the State of Oklahoma and in the extreme southern portion of the State of Kansas is purchased in competition with milk purchased for the Tulsa and Muskogee, Oklahoma, fluid markets.

The Neosho Valley Cooperative Association, an operating cooperative which would be a handler under the proposed order, purchases Grade A milk in competition with other handlers and disposes of a substantial portion of such milk in areas outside of the States of Missouri and Kansas, particularly during the months of short production. In addition, this cooperative association, as well as several other handlers in the market, operate manufacturing facilities and purchase substantial quantities of ungraded milk and cream which is disposed of as butter, condensed products, and nonfat dry milk solids competitively out of state on the open market. Ice cream, manufactured locally from ingredients purchased on the open market and from locally produced milk is sold in surrounding areas in the States of Oklahoma, Kansas, and Missouri. Butter manufactured in the State of Oklahoma is purchased by local handlers and disposed of to customers on routes in the States of Kansas and Missouri. Reddi-wip manufactured in St. Louis, Missouri, is disposed of through stores and by local handlers on routes in the States of Missouri, Kansas, and Oklahoma.

From the foregoing it is clear that a substantial volume of the milk in the Neosho Valley market is moved physically in interstate commerce in the form of milk, ice cream, butter, and other manufactured dairy products and that the handling of milk in the market directly burdens, obstructs, and affects interstate commerce in milk and its products.

B. Milk marketing conditions in the Neosho Valley market justify the issuance of a marketing agreement and order.

Producers delivering milk to handlers in the Neosho Valley market are not being paid for their milk on a use basis and there is no uniform pricing plan as among the several handlers with the result that producer prices for milk of similar quality and use vary substantially. While much of the market apparently operates on a base and surplus plan there is a wide difference in the application of such a plan as between handlers and accordingly a wide variation in the net returns to producers.

There is much dissatisfaction among producers in regard to the butterfat testing of their milk. The record shows a number of instances where producers were paid on the same test for a number of pay periods which is an unusual occurrence when samples are properly taken and properly tested. Producers delivering part of their milk to each of two plants have been paid on substantially different tests at the two plans. In addition the record shows wide variations between plant tests and D. H. I. A. tests. Even when due consideration is given to the purpose and methods of D. H. I. A. testing these extreme variations appear unreasonable and strongly support the producers in their contention that they are presently paid on inaccurate tests.

At the present time producers do not have access to the necessary market information to enable them to market their milk efficiently. They have no voice in the sales of their milk or in the testing and weighing thereof. Many of the handlers in the market have refused to recognize the existence of a cooperative association which was formed by a large group of the producers on the market as an agency to represent them in the sales of their milk. The adverse attitude which certain handlers have taken toward the association has so disrupted the market that the cooperative association is reluctant to reveal the identity of its membership and in many instances new members specifically request that their identity not be revealed for fear of reprisals on the part of handlers to whom they dispose of their milk. As a result, the cooperative association has been unable to bargain effectively with handlers in the sale of milk for its members.

The issuance of an order would provide producers with the market information necessary for efficient marketing of their milk. Furthermore, the pricing of producer milk in accordance with its use, auditing of handlers' utilization of milk, and checking of weights and tests by an impartial agency under an order will aid in establishing and maintaining the orderly marketing of milk and its products in the Neosho Valley market.

C. From the evidence, it is concluded that the proposed marketing agreement and order which are hereinafter set forth and all of the terms and conditions thereof, meet the needs of the Neosho Valley marketing area and will tend to effectuate the declared policy of the act. The following findings and conclusions are made with respect to the several provisions of the proposed marketing agreement and order.

1. *Extent of the marketing area.* The marketing area should be defined to include all territory within the counties of Allen, Bourbon, Cherokee, Crawford, Labette, Montgomery, Neosho and Wilson, all in the State of Kansas, and the counties of Barton, Jasper, Newton and Vernon, all in the State of Missouri.

Producers originally proposed that the marketing area include the municipalities of Pittsburg, Parsons, Independence, Coffeyville, Fort Scott, Iola and Chanute all in Kansas, and of Joplin, Carthage and Neosho, all in Missouri. No other proposals were made for inclusion in the original notice of hearing. Subsequent to the issuance of a recommended decision on the issues of the November 1950 hearing the hearing was reopened at the request of handlers doing business in these municipalities in order to receive evidence on additional proposals which sought to define the marketing area by county boundaries so as to include the Kansas counties named above with the addition of Woodson County, and provided that if any Missouri territory were included the Missouri counties named above and McDonald County should be included.

The ten cities named and the City of Nevada, Missouri, represent the larger centers of population in the counties to be included in the marketing area. There are, however, numerous smaller towns in the area. Handlers operating in the larger cities of the area distribute milk in these smaller cities and towns, in many of which there are no local distributing plants. As a result several handlers located in the larger cities do a substantial portion of their business in the smaller towns. While it does not appear that any single handler distributes throughout the entire twelve-county area proposed, the distribution routes of all handlers are extensively intermingled throughout the area. Handlers from the larger cities compete with each other and with local handlers for the fluid milk business of the smaller towns. In addition, there is considerable movement of milk between the larger cities. Handlers from Pittsburg and Parsons, Kansas, have substantial sales in Joplin, Missouri. The Parsons handler distributes milk in Pittsburg and Chanute and the Pittsburg handler in Fort Scott, Kansas.

All the larger cities and many of the smaller cities have Grade A milk ordinances patterned after the standard recommended by the U. S. Public Health Service. The States of Kansas and Missouri each have similar standards for milk sold as Grade A milk. The record would indicate that a very high percentage of all milk sold in the area is Grade A milk. While there may be some differences in the degree of effectiveness of enforcement of these uniform standards by the various health authorities of the area the movement of milk from one health jurisdiction to another indicates that the quality of Grade A milk is generally uniform throughout the various portions of the area.

In view of the characteristics of the area and the milk trade therein, and the uniformity of health regulations, it is concluded that the marketing area should so far as possible be contiguous and be defined by county boundaries. While this will result in the inclusion of much rural area, it does not appear that serious administrative difficulties will be incurred as a result. It is proposed that only handlers who distribute Grade A milk in the marketing area shall

be regulated. Such handlers and their approved producers are readily identifiable under the health regulations.

The twelve counties to be defined as the marketing area represent the principal area within which milk is distributed by handlers of the ten cities first proposed by producers. The distribution of these handlers in Woodson County, Kansas, and McDonald County, Missouri, which were also proposed for inclusion in the marketing area, is not so extensive as in the counties named. In addition, it appears that in these two counties some milk is also being distributed by handlers who are primarily associated with other markets and have no other connection with the Neosho Valley market. In the twelve counties named, the only such distribution shown on the record is by handlers already regulated under the orders issued for the Springfield, Missouri, and Tulsa, Oklahoma, markets. It is therefore concluded that Woodson County, Kansas, and McDonald County, Missouri, should not be included in the marketing area.

2. *Definitions.* In order to designate clearly exactly what milk is to be subject to the pricing provisions of the order, which processors and distributors are to be subject to regulation and which dairy farmers will participate in the market pool it is necessary to define the terms "approved plant," "handler," "producer" and "other source milk."

It is intended that any producer holding a permit or rating issued by the appropriate health authority having jurisdiction in the marketing area and who delivered milk to a plant which disposes of at least 10 percent of its receipts of milk qualified for distribution as Grade A milk in the marketing area as Class I milk on wholesale or retail routes in the marketing area during the delivery period should be included in the market pool. Accordingly, an "approved plant" is designated as any milk processing plant, except that of a producer-handler, which is approved by the appropriate health authority having jurisdiction in the marketing area and from which 10 percent or more of the receipts during the delivery period of milk qualified for distribution as Grade A milk in the marketing area is disposed of during the delivery period on wholesale or retail routes (including plant stores) as Class I milk in the marketing area. The exemption of a distributing plant from which less than 10 percent of its approved receipts are disposed of as Class I milk on routes in the marketing area is necessary in this market to eliminate the influence on returns to producers caused by the operations of distributors who are not primarily associated with the marketing area and to prevent possible hardship upon such distributors which might result from applying the provisions of the proposed order to the total operations of such distributors when they actually are more closely associated with other markets. In order to prevent these distributors from having a price advantage with respect to sales of Class I milk in the marketing area they should be required to pay into the producer-settlement fund the difference between the Class I and the Class II price on such milk disposed of in the marketing area. In addition, such distributors should be required to pay to the market administrator, as their share of the administrative cost of operating this order, the administrative assessment on the quantity of Class I milk disposed of in the marketing area, and they should also be required to make reports to the market administrator and to keep the necessary books and records of receipts and utilization and permit verification thereof.

The term "producer" should be defined as any person, other than a producer-handler, who produces milk under a dairy farm inspection permit or rating issued by the appropriate health authority which milk is received at an approved plant or is diverted from an approved plant to any milk distributing or milk manufacturing plant. In order to eliminate possible conflict between this order and other orders regulating the handling of milk in adjacent areas it is provided that the term "producer" shall not include a person with respect to milk produced by him which is received by a handler who does a greater percentage of his Class I business under another Federal marketing order.

The term "handler" should include any person in his capacity as the operator of an approved plant, a producer-handler, any person in his capacity as the operator of an unapproved plant from which milk is disposed of as Class I milk in the marketing area and a cooperative association with respect to milk of producers which it causes to be diverted to an unapproved plant. Milk diverted from an approved plant to an unapproved plant for the account of the approved plant operator should be considered as having been received at the approved plant since producers of such milk would ordinarily be regular suppliers of the market and as such should be assured the market blend price for their milk. The inclusion in the definition of a cooperative association, even though it might not operate a plant, will enable such a cooperative association to participate in the market pool with respect to milk of its members which it may have to divert to an unapproved plant.

"Other source milk" should be defined to include all skim milk and butterfat from a producer-handler or from a source other than producers or other handlers operating approved plants except any nonfluid milk product received and disposed of in the same form.

Other source milk is not normally available for the market either because it does not meet the normal quality requirements or because its availability is restricted by the people handling it. Such milk should not share in the market pool. It is not priced under the terms of the order and to prevent its displacing the milk of producers which constitutes the regular supply of the market it is allocated to the lowest use in the handler's plant.

Since producer-handlers normally dispose of their milk during most of the year in Class I products, and since sales of Class I milk by these handlers would not be pooled, the pooling of any surplus milk purchased by handlers from producer-handlers would result in a preferential market for producer-handlers as compared with regular producers. Milk purchased from producer-handlers should be treated therefore as other source milk and would be unpriced under this proposed order. The inclusion, as other source milk, of all receipts from handlers as operators of unapproved plants assures the treatment of such milk in the same manner as is proposed for other nonproducer milk. Nonfluid milk products received and disposed of in the same form are not included as other source milk because they would not affect the classification of producer milk.

The terms "act," "person," "Secretary," "Department," "cooperative association," "producer milk," and "delivery period" are common to Federal milk marketing orders issued pursuant to the act and are defined to facilitate the drafting of the other provisions of the order.

3. *Classification and allocation of milk.* The classification of milk should be as follows: Class I milk should include all skim milk and butterfat disposed of in fluid form (except as livestock feed) as milk, skim milk, buttermilk, milk drinks, cream, cultured sour cream, any mixture of cream and milk or skim milk (except bulk ice cream mix, eggnog, and aerated cream), all skim milk and butterfat in inventory at the end of the delivery period in the form of Class I items, and all skim milk and butterfat not specifically accounted for as Class II milk. Class II milk should include all skim milk and butterfat used to produce any product other than those specified in Class I, disposed of as livestock feed, as actual plant shrinkage of skim milk and butterfat in producer milk but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively, except that during the delivery periods of April, May, and June actual shrinkage on skim milk in producer milk shall be limited to 5 percent of such receipts, and in actual plant shrinkage of skim milk and butterfat, respectively, in other source milk received.

The products to be classified as Class I are those which, under the several health ordinances in effect in the marketing area, are required to be made from approved milk. They are all derived from milk which is subject to the same transportation costs in moving from farm to market. These Class I items are all normally associated with a fluid milk business, and are all disposed of in the marketing area in fluid form through the same retail and wholesale channels as bottled fluid milk. Their physical characteristics, purposes, values, and uses are more nearly similar to those of fluid milk than to the products to be classified as Class II. The inclusion as Class I of all inventory of skim milk and butterfat in fluid items does not affect either producer returns or handlers' costs for milk over a period of time. It does, however, minimize the work of the market administrator in the reclassification and resulting audit ad-

justments which otherwise result when fluid items in inventory are later disposed of as Class I milk.

Skim milk and butterfat contained in cream and cream mixtures are subject to the same production costs as milk for other fluid uses. Furthermore, milk so utilized is the same quality of milk as is disposed of in other Class I products and is subject to the same transportation costs in moving from the farm to the handler's plant. In addition, the separate accounting of skim milk and butterfat herein proposed and the pricing thereof results in handlers being charged only for the exact volume of skim milk or butterfat actually disposed of in any particular use.

The products to be classified in Class II are not required under the local health ordinances to be made from approved milk. For this reason cottage cheese, originally proposed to be classified as Class I milk, is included in Class II milk. Producer milk in excess of the needs of local handlers for milk for Class I use must compete with ungraded milk over which it commands no premium for manufacturing uses. Accordingly, such excess milk must be classified in a lower class than that utilized for fluid products. In this manner a lower pricing is provided for such milk which lower pricing is necessary to assure the free movement of such excess supplies into manufacturing channels without burdensome competitive disadvantages to affected handlers.

Producers proposed a one percent maximum shrinkage allowance in the lowest use class while handlers proposed a minimum three percent allowance and in addition proposed that dumped milk be classified as Class II. Dumping results in complete disappearance of the skim milk and butterfat involved and it would be necessary in order to adequately protect producer interests that a representative of the market administrator's office be in a position to witness the actual dumping. The geographical characteristics of this particular marketing area, consisting as it does of twelve counties in which there are numerous separate municipalities, and the fact that most of the handlers deal in relatively small volumes of milk make it impractical to allow dumped milk to be classified as Class II. Any excess butterfat which cannot be disposed of for fluid uses or in other higher valued products can be utilized locally in the manufacture of butter. Hence under no circumstances should it be necessary to dispose of whole milk or butterfat by dumping. There are ample manufacturing facilities in the area to handle any prospective local surpluses and these manufacturing plants at times import milk from substantial distances to supplement their local supplies. Moreover, most of the handlers are short of producer milk during the fall and winter months. A Class II classification for producer skim milk which is dumped at the same time that other source milk is being received for fluid use cannot be justified. This narrows the consideration to one of a lower classification for skim milk dumped during the peak production months when supplies of local producer milk exceed the demand for fluid uses. In this connection it is proposed that for purposes of this order any milk, skim milk, or cream which is dumped be considered unaccounted for milk which, except in the case of skim milk during the months of April through June should be included as allowable shrinkage within the limits of 2 percent of producer receipts. An allowable shrinkage on skim milk of 5 percent during the months of April through June should serve to alleviate any hardship to individual handlers resulting from excess volumes in amounts too small to justify transporting to manufacturing plants or otherwise disposing of as Class II products. Unaccounted for producer milk in excess of allowable shrinkage should be classified as Class I. No limit is proposed for shrinkage of other source milk allowed in Class II since such milk is deducted from the lowest use class under the allocation provisions.

It is not administratively feasible to segregate the actual plant shrinkage on producer milk from shrinkage on other source milk in the same plant. Accordingly, in such case, the shrinkage of skim milk and butterfat, respectively allocated to producer milk and to other source milk should be computed pro rata in proportion to the volumes of skim milk and butterfat, respectively, received from such sources.

The allocation provisions should provide that other source milk, which is unpriced, be allocated to the lowest use in the handler's plant. This is done to prevent other source milk from displacing the milk of producers which constitutes the regular supply of the market.

In establishing the classification of milk the responsibility should be placed upon the handler who first receives milk from producers to account for all skim milk and butterfat received at his approved plant and to prove to the market administrator that such skim milk and butterfat should be classified as other than Class I. The handler who first receives milk from producers is responsible for reporting the proper utilization of such milk and making full payment for it. He must, therefore, maintain records to furnish adequate proof of utilization to the market administrator.

Provision should be made in the order to cover the classification of skim milk and butterfat transferred from an approved plant to another approved plant or to an unapproved plant. In the case of transfers between approved plants classification should be on the basis of written agreement between the affected handlers to the extent of utilization in the agreed use in the transferee plant. This provision affords suitable flexibility in the pricing, classification, and accounting for of milk transferred. It does not affect producer returns because all of the milk is accounted for in the pool computation in any event. In order to assure adequate protection of producers in the classification of their milk it should be provided that in case other source milk is received in either or both plants the classification of milk in each plant shall be made in such a manner as will return the higher class utilization to producer milk.

Transfers to a producer-handler should be classified as Class I milk. Producer-handlers ordinarily carry on only fluid operations and any milk which they purchase from a handler would normally be for fluid uses. Accordingly, it is unnecessary to provide for the classification of such a transfer in a lower use class.

Transfers to an unapproved plant located not more than 250 miles from the square at Chanute, Kansas, and from which Class I milk is disposed of should be classified on the basis of written agreement in the same manner as is proposed for transfers between approved plants, except that the individual dairy farmers delivering milk direct to such plant should be assured of the highest available use in such plant. This would facilitate the movement of skim milk and butterfat in excess of Class I needs and at the same time protect producers in the classification of their milk by requiring records to prove to the market administrator that an equivalent amount of skim milk and butterfat was actually used in the claimed class.

Transfers of milk, skim milk, or cream to an unapproved plant within the 250 mile limit and from which no Class I milk is disposed of should be Class II, since that necessarily would be the highest use in such plant.

Transfers of skim milk and butterfat in the form of milk or skim milk to an unapproved plant located in excess of 250 miles from the square of Chanute, Kansas, should be classified as Class I. Milk and skim milk ordinarily does not move long distances for other than fluid uses. The record shows that there are ample manufacturing outlets within the proposed 250 mile radius to dispose of any prospective surplus of producer milk. Accordingly, it is unnecessary to provide for such transfer of skim milk and butterfat in the form of milk or skim milk as other than Class I and it would be administratively impractical to do so because the market administrator would have to verify any claimed utilization in Class II.

Transfers in the form of cream to an unapproved plant beyond the 250-mile limit should be classified as Class II. Cream is less bulky than milk or skim milk and ordinarily can be moved much greater distances for other than fluid uses. Proponents proposed that skim milk and butterfat in the form of cream should be Class I if so moved under a Grade A certification. However, they offered no evidence in support of such a provision. While this provision is contained in the Federal marketing orders of several nearby areas it would be impossible to adopt such a provision without specific evidence indicating that the conditions which prompted the adoption of this proposal in those markets also prevail in the Neosho Valley area.

4. *Class prices.* Class I milk prices in this area should be based on prices paid for milk used for manufacturing purposes. Prices paid for milk used for fluid purposes in this area have been closely related to prices paid for milk for manu-

facturing purposes. Production and marketing of milk for each type of outlet are subject to many of the same economic factors. Since the market for most manufactured products is country wide, prices of manufactured dairy products reflect many of the changes in the general economic conditions affecting the supply and demand for milk. Moreover, butter, powder, and cheese prices, or the prices paid by condenseries with differentials over these basic or manufacturing prices are frequently used to establish fluid milk prices in those areas where the production of manufacturing quality milk is a significant factor in the total potential supply of milk for the market. The production of manufacturing quality milk in the supply area of the Neosho Valley area is a significant factor in the availability of milk for this market indicating the feasibility of a Class I pricing formula based on the prices of milk for manufacturing uses. Differentials over the basic formula are needed to cover the cost of meeting quality requirements in the production of market milk and to furnish the necessary incentive to get such milk produced.

The basic formula price to be used in establishing the current delivery period price for Class I milk of 4.0 percent butterfat content should be the highest of the following for the preceding month: the prices paid to farmers at 18 milk manufacturing plants in Wisconsin and Michigan for milk of 3.5 percent butterfat content adjusted to a 4.0 percent basis; a formula price based upon the market price of butter and powder; or the average price paid to farmers for milk of 4.0 percent butterfat content by specified local manufacturing plants. Pricing of producer milk on a 4.0 percent butterfat basis follows the usual custom of the market and no objection was made to the proposal. The use of the previous month's manufacturing values in determining the basic formula price for the current delivery period permits handlers to know their milk costs at the time of purchase and is consistent with the practice in the surrounding Federal order markets.

The components of the basic formula price herein decided upon are identical with those in effect in the Tulsa market and very similar to those in effect in the Springfield, St. Louis, Kansas City and Wichita markets. Correlation of the movement of prices with that in these markets is important, since Neosho Valley handlers compete for supplies of milk with handlers in each of these markets, and compete for sales with Tulsa and Springfield handlers. A Wichita handler buys a substantial volume of milk from producers in Wilson, Montgomery and Labette Counties, Kansas, which are included in the marketing area. A Tulsa handler buys milk from producers located in Cherokee County, Kansas, and Newton County, Missouri, and from producers located in the area in Oklahoma from which a Neosho Valley handler at Coffeyville secures a major portion of his milk supply. Springfield handlers secure some supplies from areas in Missouri from which producers supply milk to Neosho Valley handlers located in Joplin, Neosho, Nevada and Pittsburg. A receiving station for Kansas City at Butler, Missouri, and one for St. Louis at Monnett, Missouri, are each located in counties adjoining the marketing area.

The Class I differential should be fixed at $1.00 per hundredweight over the basic formula price during the delivery periods of April through June and at $1.45 per hundredweight over the basic formula price during the delivery periods of July through March. Such pricing serves to maintain the Class I price in the area at approximately the same level as that paid recently by handlers in the Wichita market, but approximately 35 cents per hundredweight less than that provided for the months of September through December 1951 by a recent amendment to the Wichita order, of which official notice is hereby taken. The differentials herein decided upon produce a Class I price 40 cents less per hundredweight than that of the Tulsa order. To some extent these differences will be offset by increased costs of delivery to Wichita and Tulsa. Any greater differences, however, would result in increased loss of milk supplies from the Neosho Valley market to these markets.

The Class I prices of the Springfield market, in which a Federal order became effective in March 1950 are arranged in a different seasonal pattern and are somewhat less than those that will result from these differentials. As indicated by the record, hearings have been held on proposals for upward adjustment of the Class I pricing formulas of the Springfield market. For much of the year the difference under the current provisions of the Springfield order is less than the 20 cents per hundredweight that Neosho Valley handlers indicated as a proper alignment of the two areas. In view of the necessity for establishment of a price structure which will not unduly accelerate the shifting of additional supplies to the Tulsa and Wichita markets, the differentials decided upon herein appear to be the most satisfactory pricing basis for Class I milk in the area.

The Class I prices resulting from the basic formula prices and differentials herein decided would have been somewhat higher than the average prices currently paid by handlers in the Neosho Valley market. There have, however, been considerable variations in the prices paid by different handlers who compete with each other for supplies and sales. The record would indicate that during the short supply season a number of handlers have not had an adequate supply of local producer milk. Production and sales data for the market as a whole is not available upon which to base judgment as to the overall adequacy of supply in the market.

The use of seasonal differentials in the pricing of Class I milk follows the pricing scheme in effect in the Tulsa, Kansas City, and Wichita markets with which Neosho area prices must be aligned.

Because of the wide variation in producer receipts between the spring and the fall months it is concluded that no changes should be permitted in the proposed pricing for Class I milk which would tend to discourage a desired leveling of production throughout the year. This can best be prevented by providing for a contraseasonal provision. Such a provision would prevent any decrease in the Class I price during the months of September through December when production costs are highest and any increase in such price during the months of April through June when production costs are lowest.

Certain handlers proposed a lower pricing for milk sold (in bulk) as Class I, outside of the marketing area, contending that without such a pricing they could not compete for outside sales and that as a result local producers would receive less total money for their milk. A lower pricing for fluid milk sold outside the marketing area is not justified. Milk disposed of by local handlers to outside areas is the same quality as that disposed of within the marketing area and is subject to the same transportation costs in moving from the farm to the handled's plant. Furthermore, such bulk sales by local handlers have no aspects of an outlet for seasonal surplus of producer milk but in fact occur primarily during the short production months when other handlers in the market are importing supplemental supplies to meet local fluid requirements.

The level of pricing herein proposed is established with a view to providing an adequate supply of milk to meet the normal needs of local handlers. Bulk sales to outside areas during the short production season when local supplies are inadequate cannot be construed as a normal requirement of local handlers. Rather the consummation of such sales offers strong support to producers' claims of an inadequate return for their milk. A lower pricing for milk sold outside of the marketing area would require a higher pricing for locally consumed milk which would result in local consumers subsidizing consumers in other markets to which such sales were made.

The price for Class II milk should be based on the average of the prices paid for milk during the current delivery period by four nearby milk manufacturing plants. The use of local manufacturing plants was supported by both producers and handlers and the price paid at the plants named herein should be representative of the value of manufacturing milk in the Neosho Valley area. Handlers purchasing ungraded milk have paid prices almost identical with the average prices of these four plants. Handlers purchasing graded milk on base-surplus plans have been paid surplus prices at and above this level. Since handlers compete with these plants in the sale of products included in Class II milk and from time to time dispose of some of their surplus milk to one or another of these plants, it is necessary that producer milk going into such products be priced at a level comparable to the prices paid for milk by such plants in order to insure a market for producer milk in excess of fluid requirements.

Such pricing would have resulted in an average Class II price in recent periods somewhat less than the prices for such milk under the Springfield, St.

Louis, and Kansas City orders, slightly more than that for such milk under the Tulsa order, and somewhat more than the prices for such milk under the Oklahoma City and Wichita orders. For the month of May 1951 the prices (converted to a 4.0 percent basis where required) would have been as follows: Neosho Valley, $3.75; Springfield, $3.805; St. Louis, $3.955; Kansas City, $3.834; Tulsa, $3.70; Oklahoma City, $3.50; Wichita, $3.51. The May prices for Springfield and Kansas City are affected by seasonal reductions, so that greater differences might be shown for other months. Hearings have now been held on proposals for upward revision of surplus milk prices in Oklahoma City and Witchita.

The class prices computed and publicly announced by the market administrator under the terms of the order would be those for milk containing 4.0 percent butterfat. The class prices for each handler should be adjusted by a butterfat differential to reflect the average test of producer milk classified in each class. Such differential for Class II milk shall be computed on the basis of the price of Grade A (92-score) bulk creamery butter at Chicago for the delivery period plus 15 percent. This differential is in line with the general level of the price of butterfat in the area for manufacturing uses. With regard to Class I milk, such differential should be computed at the basis of the price of Grade A (92-score) bulk creamery butter at Chicago for the preceding delivery period plus 25 percent, reflecting the higher valued use of butterfat for fluid uses. These differentials are the same as those currently in effect in the Tulsa market.

5. *Payments to producers.* The "market-wide" type of pool with base-rating plan should be established in this order for the purpose of distributing among producers returns from the sale of their milk. Under this plan all producers receive the same uniform price for their milk (or when bases are applicable a uniform price for base milk and a uniform price for milk in excess of base) irrespective of the utilization made of such milk by individual handlers.

The alternative to the market-wide pool is the individual-handler pool. Under this latter system producers delivering to each handler receive a uniform price based on each handler's utilization of milk. Because different handlers utilize different proportions of their milk as Class I and Class II, the uniform prices of individual handlers would vary one from the other. This might facilitate the distribution of the available supply of milk in accordance with handlers' needs in a marketing area of this size. A cooperative association representing a large segment of the producers in the market has however proposed that the order be so written as to enable it to become a handler when necessary to market the surplus milk of its members. Under these circumstances an individual-handler pool would result in an unequal sharing of the market among producers and would not be conducive to orderly marketing. The order has been written to permit a cooperative association to become a handler and it is therefore concluded that a market-wide pool should be adopted at this time. In addition the use of a market-wide type of pooling will facilitate the distribution among producers of compensatory payments required under certain conditions from nonpool handlers and those subject to other orders.

In the computation of the value of producer milk, provision should be made for the inclusion of the value of milk classified in excess of reported receipts from producers, other handlers, and other sources. This provision is found in other milk orders and is necessary to account for differences between the reported and actual weights and tests of milk received from producers.

The butterfat differential to be used in making payments to producers should be fixed at one-tenth of the price of Grade A (92-score) butter on the Chicago market multiplied by 1.2. This differential is the same as that established under the Tulsa and Oklahoma City marketing orders. The producer butterfat differential merely affects the proration of returns among producers, and it in no way affects handlers' costs for milk.

The distribution among producers of the returns from the sales of milk should be made through the medium of a base-rating plan. There is a wide variation in producer receipts from season to season which both producers and handlers recognize as an undesirable situation in the market. The proposal for a base-rating plan is supported by both the producers association and handlers in the market. While many of the handlers have developed some modification of a base-rating plan for paying their producers the actual operations of these plans have been very limited and consequently ineffective in accomplishing the objective of an evening out of the seasonal variations in milk deliveries. Under the plan as hereinafter provided new bases would be established each year on the basis of total deliveries made by each producer during the short production months of September through December.

In view of the date at which any order may now become effective, provision is included that the first base-forming period shall be the delivery periods from the effective date of the order through January 1952. There was considerable testimony in the record to the effect that January should be included as one of the base-forming months. While it is concluded that for future years it is more appropriate to use an earlier period in order that new producers may be attracted to the market in time to supply milk during the entire short production season, January appears an appropriate month for inclusion the first year of operation of the order to provide a reasonable period upon producers' bases may be established. The market administrator would compute the base of each producer from whom each handler received milk during the base period and notify each producer of his established base on or before the 15th day of February of each year. The bases so established would be used in making payments to producers during the months of greatest production, i. e., April through June.

A uniform price for base milk during these months would be computed which would reflect the residual value of milk for the market as a whole after the prior assignment of deliveries of milk in excess of base to the lowest available use class. The price of base milk would thus be enhanced above the average for the market and the uniform price for excess milk would be below the average. The lower price applicable to milk in excess of base deliveries tends to limit the deliveries of such milk during the months of surplus production. Conversely, the value of a large base gives impetus to the delivery of milk in the season of short production. The influences of these two forces tends to cause a more even seasonal pattern of milk deliveries than if payments were made during all months of the year on a straight uniform price basis.

It is necessary to provide certain rules in connection with the establishment and transfer of bases to provide reasonable administrative workability of the plan. In order to accomplish this purpose and preserve the effectiveness of the plan no provisions should be made for the transfer of partial bases. However, transfer of the entire base of an individual producer to members of his family in case of death, retirement or entry into military service is permitted. Provision is also made for transfer of the entire base in the case of the termination of joint landlord-tenant relationships. These rules should assure the workability of the plan and at the same time place no undue hardship upon any producer since the established bases are effective in determining producer payments in only three of the twelve months of each year.

Although uniform prices are computed once a month, provision should be made to pay producers on a semi-monthly basis. The majority of producers on the market have customarily been paid twice a month and it is concluded that this practice should be continued. The advance payment to be made on or before the last day of the delivery period and covering receipts of producer milk during the first 15 days of the delivery period should be at not less than the Class II price for the preceding delivery period. Payment at this rate will largely eliminate the possibility of handlers making overpayments to producers who may leave the market before the end of the delivery period. Final payment for milk received during each delivery period should be made on or before the 16th day after the end of the delivery period.

In the case of a qualified cooperative association, who so requests, the handler should make the advance and final payments sufficiently in advance of the date for payment to other producers to enable the cooperative association to pay its members at that date. The dates which have been provided for these various payments are so spaced that ample time is provided the handlers and the market administrator for the filing of reports, the computation of the various prices and the writing and mailing of checks.

6. Certain other provisions should be adopted to enable proper and efficient administration of the order.

(a) *Administrative assessment.* Each handler should be required to pay to the market administrator, as his pro rata share of the cost of administration of the order, 5 cents per hundredweight, or such lesser sum as the Secretary may from time to time prescribe, on all receipts at his pool plant within the delivery period of (1) milk from producers (including such handler's own production) and (2) other source milk which is classified as Class I.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order and the act provides that the administration of the order be financed through assessment against handlers. In view of the anticipated volume of milk on which the rate would apply it is concluded that a maximum rate of 5 cents per hundredweight is necessary at this time to guarantee sufficient administrative funds. In the event at a later date a lesser amount proves to be sufficient for proper administration, provision is made to enable the Secretary to reduce the assessment accordingly.

(b) *Deductions for marketing services.* Provision should be made for the dissemination of market information to producers and for the verification of weights and for the sampling and testing of milk received from producers for whom such services are not being rendered by a qualified cooperative association. This provision, including the assessing of producers in payment thereof, is specifically authorized by the act. Five cents per hundredweight or such lesser rate as the Secretary may determine should be deducted by handlers from the payment to producers and turned over to the market administrator to finance such services. This rate was proposed by producer groups who have had experience with check sampling, weighing, and testing programs in the marketing area. In the event any qualified cooperative association is determined to be performing such services for any producer, handlers should pay to the cooperative association such deductions as are authorized by such producer in lieu of the payment to the market administrator.

(c) *Other administrative provisions.* The other provisions of the order are of a general administrative nature, are incidental to the other provisions of the order, and are necessary for the proper and efficient administration of the order. They provide for the selection of the market administrator, define his powers and duties, prescribe the information to be reported by handlers each month and the length of time that records must be retained. A plan for liquidation of the order in the event of its suspension or termination should also be provided.

Producer-handlers should be exempt from the regulatory provisions of the order except that they should be required to file reports as requested by the market administrator. Since a producer-handler may change his status from time to time it is necessary that the market administrator have authority to require such reports as will enable him to verify the current status of a producer-handler and to supplement other market information.

The operator of an approved plant which is subject to the regulatory provisions of another milk marketing agreement or order issued pursuant to the act and which the Secretary determines disposes of a greater volume of its Class I milk in such other marketing area than in this marketing area should be partially exempt from the provisions of this order. It would be impractical to attempt to regulate a handler under two separate orders with respect to the same milk. It appears reasonable that the effective regulation should be that of the area in which such a handler makes the greater portion of his sales. In order to insure equity between handlers, such a handler should not be permitted to purchase milk for sale as Class I in either area at less than the price paid by regulated handlers of the area. Therefore it should be provided that if the price such handler is required to pay for Class I milk under the other order to which he is subject is less than the price provided in the proposed order, he should pay to the producer-settlement fund an amount equal to the difference between the two prices on all Class I milk disposed of within the area. Such handler should also be required to report to the market administrator regularly so that he may ascertain the amount of milk disposed of by such persons within the area.

The order should provide limitations on the period of time handlers shall retain books and records which are required to be made available to the market administrator, and on the period of time in which obligations under the order shall terminate. The provision made in this regard is identical in principal with the general amendment made to all orders in operation on July 30, 1947, effective February 22, 1949, and the Secretary's decision of January 26, 1949 (14 F. R. 444), covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

General findings. (a) The proposed marketing agreement and the order and all of the terms and conditions thereof will tend to effecuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Proposed findings and conclusions. Briefs (and exceptions to the recommended decision issued March 28, 1951, which are here considered as briefs) were filed on behalf of the K. M. O. Milk Producers Association (formerly the Southeast Kansas Grade A Milk Producers Association) and the majority of the handlers who would be regulated. The briefs contained proposed findings of facts, conclusions, and arguments with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinafter set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in this decision.

Recommended marketing agreement and order. The following order is recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order.

DEFINITIONS

§ 928.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreements Act of 1937, as amended (7 U. S. C. 1940 ed. 601 et seq.).

§ 928.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 928.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions of the United States Department of Agriculture.

§ 928.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 928.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and,

(b) Is authorized by its members to make collective sales or to market milk or its products for its members.

§ 928.6 *Neosho Valley marketing area.* "Neosho Valley marketing area," hereinafter called the "marketing area" means all of the territory within the counties of Allen Bourbon, Cherokee, Crawford, Labette, Montgomery, Neosho and Wil-

son, all in the State of Kansas, and the counties of Barton, Jasper, Newton and Vernon, all in the State of Missouri.

§ 928.7 *Approved plant.* "Approved plant" means any milk processing plant, except that of a producer-handler, which is approved by the appropriate health authority having jurisdiction in the marketing area and from which 10 percent or more of the receipts during the delivery period of milk qualified for distribution as Grade A milk in the marketing area is disposed of during the delivery period on wholesale or retail routes (including plant stores) as Class I milk in the marketing area.

§ 928.8 *Handler.* "Handler" means: (a) Any person in his capacity as the operator of an approved plant, (b) a producer-handler, (c) any person, except a producer-handler, in his capacity as the operator of an unapproved plant from which milk is disposed of during the delivery period on wholesale or retail routes (including plant stores) as Class I milk in the marketing area, and (d) any cooperative association with respect to the milk of producers which it causes to be diverted to an unapproved plant for the account of such association.

§ 928.9 *Producer.* "Producer" means any person, other than a producer, handler, who produces milk under a dairy farm permit or rating issued by the appropriate health authority having jurisdiction in the marketing area over the production of milk disposed of for consumption as Grade A milk which milk is (a) received at an approved plant, or (b) diverted from an approved plant to any milk distributing or milk manufacturing plant: *Provided,* That such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted: *And provided further,* That this definition shall not include a person with respect to milk produced by him which is received by a handler who is partially exempted from the provisions of this order pursuant to §§ 928.61 and 928.62.

§928.10 *Producer-handler.* "Producer-handler" means any person who processes milk from his own farm production, all or a portion of which is disposed of as Class I milk, within the marketing area, and who receives no milk from producers.

§ 928.11 *Other source milk.* "Other source milk" means all skim milk and butterfat received in any form from a producer-handler or from a source other than producers or another handler in his capacity as the operator of an approved plant except any nonfluid milk product received and disposed of in the same form.

§ 928.12 *Delivery period.* "Delivery period" means a calendar month, or any portion thereof during which this order is in effect.

MARKET ADMINISTRATOR

§ 928.20 *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by and shall be subject to removal at the discretion of, the Secretary.

§ 928.21 *Powers.* The market administrator shall have the following powers with respect to this order:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 928.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions hereof, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performances of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 928.97 the cost of his bond and those of his employees, his own compensation, and all other expenses, except those incurred under § 928.96, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for herein, and upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office or by such other means as he deems appropriate, the name of any person, who within 10 days after the date upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 928.30 through 928.32, or (2) payments pursuant to §§ 928.90 through 928.97.

(i) On or before the 11th day after the end of each delivery period, report to each cooperative association which so requests, the amount and class utilization of the milk causeed to be delivered to each handler by such cooperative association, either directly or from producers who are members of such cooperative association. For purposes of this report, the milk so delivered by a cooperative association shall be prorated to each class in the proportion that the total quantity of producer milk received by such handler was to the quantity of milk in each class;

(j) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each delivery period as follows:

(1) On or before the 5th day of each delivery period the minimum price for Class I milk computed pursuant to §928.51 (a) and the Class I butterfat differential computed pursuant to § 928.52, both for the current delivery period; and the minimum price for Class II milk computed pursuant to § 928.51 (b) and the Class II butterfat differential computed pursuant to § 928.52, both for the previous delivery period, and

(2) On or before the 11th day of each delivery period the uniform price(s) computed pursuant to §§ 928.71 and 928.72 and the butterfat differential computed pursuant to § 928.91, both for the previous delivery period; and

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS AND FACILITIES

§ 928.30 *Delivery period reports of receipts and utilization.* On or before the 7th day after the end of each delivery period each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in (1) all receipts at his approved plant(s) within such delivery period of:

(i) Milk received from producers,

(ii) Skim milk and butterfat in any form from other pool handlers, and

(iii) Other source milk.

(2) Milk diverted pursuant to § 928.9 (b).

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section; and

(c) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 928.31 *Payroll reports.* On or before the 20th day of each delivery period each handler shall submit to the market administrator his producer payroll for the preceding delivery period which shall show (a) the total pounds of milk received from each producer or cooperative association, and the total pounds of butterfat contained in such milk; (b) the net amount of such handler's payment to each producer or cooperative association; and (c) the nature and amount of any deductions or charges involved in such payments.

§ 928.32 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who causes milk to be diverted shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

§ 928.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all skim milk and butterfat contained in producer milk and other source milk;

(b) The weights of butterfat and skim milk in all milk, skim milk, cream and milk products handled; and

(c) Payments to producers and cooperative associations.

§ 928.34 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 928.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the delivery period by a handler and which is required to be reported pursuant to § 928.30 shall be classified by the market administrator pursuant to the provisions of §§ 928.41 through 928.46.

§ 928.41 *Classes of utilization.* Subject to the conditions set forth in §§ 928.43 and 928.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in fluid form (except as livestock feed) as milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream, any mixture of cream and milk or skim milk (except bulk ice cream mix, eggnog and aerated cream), all skim milk and buttermilk in inventory at the end of the delivery period in the form of Class I items, and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section;

(b) Class II milk shall be all skim milk and butterfat accounted for (1) as having been used to produce any products other than those specified in paragraph (a) of this section, (2) as disposed of for livestock feed, (3) in actual plant shrinkage of skim milk and butterfat in producer milk, but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively: *Provided,* That during the months of April, May and June such maximum shrinkage allowance on skim milk shall be not in excess of 5 percent, and (4) in actual plant shrinkage of skim milk and butterfat in other source milk.

§ 928.42 *Shrinkage.* If producer milk and other source milk are both received at a handler's approved plant during the same delivery period the shrinkage of skim milk and butterfat, respectively, allocated to each source shall be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their totals.

§ 928.43 *Responsibility of handlers.* All skim milk and butterfat shall be classified as Class I milk unless the handlers who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified as Class II milk.

§ 928.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk or cream, to the approved plant of another handler unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred: *Provided,* That in no event shall the amount of the skim milk or butterfat so assigned to Class II exceed the total utilization of skim milk or butterfat, respectively, in the plant of the transferee-handler: *And provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants to give priority to producer milk in the allocation of Class I utilization.

(b) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to a producer-handler.

(c) As Class I milk if transferred or diverted in the form of milk or skim milk and as Class II milk if so transferred in the form of cream to an unapproved plant located more than 250 miles from the square of Chanute, Kansas, by the shortest highway distance as determined by the market administrator.

(d) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant located not more than 250 miles from the square at Chanute, Kansas (by shortest highway distance as determined by the market administrator) and from which Class I milk is disposed of unless:

(1) The handler claims Class II on the basis of utilization mutually indicated in writing to the market administrator by both the operator of the unapproved plant and the handler on or before the 7th day after the end of the delivery period within which such transfer occurred; and

(2) The operator of the unapproved plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification: *Provided,* That if the Class I utilization of skim milk and butterfat in such plant exceeds receipts at such plant of skim milk and butterfat in milk directly from dairy farmers who the market administrator determines constitutes the regular source of supply for fluid usage of such unapproved plant in markets supplied by it, an amount of skim milk and butterfat equal to such excess shall be classified as Class I milk.

(e) As Class II milk if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant located not more than 250 miles from the square at Chanute, Kansas, and from which no Class I milk is disposed of.

§ 928.45 *Computation of the skim milk and butterfat in each class.* For each delivery period the market administrator shall correct for mathematical and for other obvious errors the report of receipts and utilization submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

§ 928.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 928.45, the market administrator shall determine the classification of producer milk as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 928.41 (b) (3);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk contained in the Class I items in inventory at the beginning of the delivery period;

(3) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from the remaining pounds of skim milk in Class I;

(4) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers and assigned to such class pursuant to § 928.44 (a);

(5) Add to the remaining pounds of skim milk in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; or if the remaining pounds of skim milk remaining in both classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be called "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, respectively, as computed pursuant to paragraphs (a) and (b) of this section and determine the percent of butterfat content in such milk in each class.

MINIMUM PRICES

§ 928.50 *Basic formula price to be used in determining Class I price.* The basic formula price to be used in determining the price per hundredweight of Class I milk for the delivery period shall be the highest of the prices computed pursuant to paragraphs (a) and (b) of this section and § 928.51 (b), all for the preceding delivery period.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present operator and location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Oxfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

divided by 3.5 and multiplied by 4.0.

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the month, subtract 3 cents, add 20 percent thereof, and multiply by 4.0.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray, and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.96.

§ 928.51 *Class prices.* Subject to the provisions of § 928.52, each handler shall pay producers at the time and in the manner set forth in §§ 928.90 through 928.95 not less than the following prices per hundredweight for milk received from such producers during the delivery period:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price plus the following amounts per hundredweight: $1.00 during the delivery periods April through June, and $1.45 during the delivery periods of July through March: *Provided,* That for each of the delivery periods of September through December, such price shall not be less than that for the preceding delivery period, and that for each of the delivery periods of April through June such price shall be not more than that for the preceding delivery period.

(b) *Class II milk.* The price for Class II milk shall be the arithmetic average of the basic, or field, prices reported to have been paid or to be paid per hundredweight for ungraded milk of 4.0 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department on or before the 6th day after the end of the delivery period by the companies indicated below:

Company and location

Pet Milk Co., Neosho, Mo.
Borden Co., Fort Scott, Kans.
Carnation Co., Mount Vernon, Mo.
Pet Milk Co., Iola, Kans.

§ 928.52 *Butterfat differentials to handlers.* If the weighted average butterfat test of that portion of producer milk which is classified, respectively, in any class utilization for a handler pursuant to § 928.46 (c) is more or less than 4.0 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one tenth of 1 percent that such weighted average butterfat test is above, or below, respectively, 4.0 percent, a butterfat differential (computed to the nearest tenth of a cent) calculated as follows:

(a) *Class I milk.* Multiply by 1.25 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the preceding delivery period, and divide the result by 10.

(b) *Class II milk.* Multiply by 1.15 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period and divide the result by 10.

APPLICATION OF PROVISIONS

§ 928.60 *Producer-handlers.* §§ 928.40 through 928.46, 928.50 through 928.52, 928.70 through 928.72, 928.80 through 928.83 and 928.90 through 928.97 shall not apply to a producer-handler.

§ 928.61 *Handlers subject to other orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing agreement or order issued pursuant to the act, the provisions of this order shall not apply except as follows:

(a) The handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator pursuant to § 928.33.

(b) If the price which such handler is required to pay under the other Federal order to which he is subject for skim milk and butterfat, which would be classified as Class I milk under this order, is less than the price provided by this order such handler shall pay to the market administrator for deposit into the producer-settlement fund, with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area, an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this order and its value as determined pursuant to the other order to which he is subject.

§ 928.62 *Handlers doing less than 10 percent of their business in the marketing area.* In the case of any handler (except a handler who would be covered under § 928.61) who the Secretary determines disposes of less than 10 percent of his milk, qualified for distribution as Grade A milk in the marketing area, as Class I milk in the marketing area, the provisions of this order shall not apply except as follows:

(a) The handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator shall require and shall allow verification of such reports by the market administrator pursuant to § 928.33;

(b) Pay to the market administrator for deposit into the producer-settlement fund, with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area, an amount equal to the difference between the Class I and Class II value of such skim milk or butterfat as computed pursuant to this order;

(c) As his pro rata share of the expense of administration hereof, such handler shall pay to the market administrator on each hundredweight of milk disposed of as Class I milk in the marketing area the amount per hundredweight in the manner specified in § 928.97.

DETERMINATION OF UNIFORM PRICES

§ 928.70 *Computation of value of milk.* The value of milk received during each delivery period by each handler from producers shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices adjusted by the butterfat differential to handlers specified in § 928.52 and adding together the resulting amounts: *Provided,* That if the handler had an over-

age of either skim milk or butterfat there shall be added to the above values an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 928.46 (a) (5) or (b) by the applicable class prices.

§ 928.71 *Computation of uniform price.* For each delivery period of July through March the market administrator shall compute the uniform price per hundredweight for milk of 4.0 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 928.70 for all handlers who made the reports prescribed in § 928.30 and who made the payments required pursuant to § 928.93 for the preceding delivery period.

(b) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 928.95;

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 928.91 and multiply the resulting figure by the total hundredweight of such milk;

(d) Divide the resulting amount by the total hundredweight of milk included in this computation, and

(e) Subtract not less than 4 cents nor more than 5 cents from the amount per hundredweight computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for milk of 4.0 percent butterfat content received from producers.

§ 928.72 *Computation of the uniform prices for base milk and for excess milk.* For each of the delivery periods of April through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

(a) Combine into one total the values computed pursuant to § 928.70 for all handlers who make the reports prescribed in § 928.30 and who made the required payments pursuant to § 928.93 for the preceding delivery period.

(b) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 928.95;

(c) Subtract if the average butterfat content of producer milk represented if the values in parargaph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 928.91 and multiply the resulting figure by the total hundredweight of such milk.

(d) Compute the total pounds of milk delivered by producers which are not in excess of their respective bases;

(e) Compute the total value of producer milk in excess of the delivered bases of all producers as follows: (1) Allocate in series beginning with Class II the total pounds of producer milk in excess of the total pounds of delivered base milk computed pursuant to paragraph (d) of this section; (2) Multiply the total pounds of excess milk allocated to each class by the appropriate class prices computed pursuant to § 928.51 and add the resulting totals;

(f) Subtract from the value computed pursuant to paragraph (c) of this section the value of excess milk computed pursuant to paragraph (e) (2) of this section and divide the resulting total by the total hundredweight of base milk as computed in paragraph (d) of this section.

(g) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (f) of this section. The resulting price shall be the uniform price per hundredweight for base milk containing 4.0 percent butterfat.

(h) Divide the value obtained pursuant to paragraph (e) (2) of this section by the total hundredweight of excess milk and round to the nearest full cent. The resulting price shall be the uniform price per hundredweight of excess milk containing 4.0 percent butterfat content.

BASE RATING

§ 928.80 *Determination of daily base of each producer.* For the delivery periods of April through June of each year, the daily base of each producer shall be an amount of milk computed by the market administrator by dividing the total pounds of milk received from such producer by handlers during the preceding delivery periods of September through December by the total number of days in such period during which such producer made deliveries or by 90, whichever is greater: *Provided,* That for the delivery periods of April through June 1952, the total pounds of milk received from such producer by handlers during the preceding delivery periods from the effective date of this order through January 1952 shall be used in such computation.

§ 928.81 *Determination of the delivery period base of each producer.* For each of the delivery periods of April through June of each year the base of each producer shall be an amount of milk computed by the market administrator by multiplying the daily base of such producer by the number of days on which milk was received during such delivery period from such producer by a handler.

§ 928.82 *Base rules.* (a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred by notifying the market administrator in writing before the last day of any month in which such base applies that such base is to be transferred to the person named in such notice only as follows:

(i) In the event of the death, retirement, or entry into military service of a producer the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy operation.

(ii) If a base is held jointly and such joint holding is terminated, the entire base only may be transferred to one of the joint holders.

§ 928.83 *Announcement of daily bases.* On or before February 15, of each year, the market administrator shall notify each producer of his daily base.

PAYMENTS

§ 928.90 *Time and method of payment.* Each handler shall make payment as follows:

(a) On or before the last day of each delivery period to each producer for milk received from him during the first 15 days of such delivery period at not less than the Class II price for the preceding delivery period: *Provided,* That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payments for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association at least 2 days before the end of the delivery period, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

(b) On or before the 16th day after the end of each delivery period, for all milk received during such delivery period from such producer at not less than the applicable uniform prices for such delivery period computed pursuant to §§ 928.71 and 928.72, subject to the following adjustments:

(1) The butterfat differential pursuant to § 928.91; (2) payment made pursuant to paragraph (a) of this section; (3) marketing service deductions pursuant to § 928.96; (4) deductions authorized by the producer; and (5) any error in payments to such producer for past delivery periods: *Provided,* That if by such date such handler has not received full payment for milk for such delivery period pursuant to § 928.94, he may reduce uniformly per hundredweight, for all producers his payments pursuant to this paragraph, by an amount not in excess of the per hundredweight reduction in payments from the market administrator: *Provided further,* That the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments, pursuant to this paragraph, next following that on which such balance of payment is received from the market administrator: *And provided further,* That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such co-

operative association, on or before the 14th day after the end of each delivery period an amount equal to the sum of the individual payments otherwise payable to such producer in accordance with this paragraph.

§ 928.91 *Producer butterfat differential.* In making payments pursuant to § 928.90 (b), there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, an amount computed by multiplying by 1.2 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 928.92 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit payments made by handlers pursuant to §§ 928.61 (b), 928.62 (b), 928.93, and 928.95 and out of which he shall make payments to handlers pursuant to §§ 928.94 and 928.95: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

§ 928.93 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each delivery period, each handler shall pay to the market administrator any amount by which the total value of the milk received by such handler from producers as determined pursuant to § 928.70 for such delivery period is greater than an amount computed by multiplying the total hundredweight of milk, or during the delivery period of April, May, and June the total hundredweight of base milk and excess milk, respectively, received from producers during the delivery period by the applicable uniform price(s), adding together the respective totals and adjusting for the butterfat differential provided for in § 928.91.

§ 928.94 *Payments out of the producer-settlement fund.* On or before the 13th day after the end of each delivery period the market administrator shall pay to each handler for payment to producers, or a cooperative association, any amount by which the value of the milk received by such handler from producers as determined pursuant to § 928.70 for the delivery period is less than an amount computed by multiplying the total hundredweight of milk, or during the delivery periods of April, May, and June the total hundredweight of base milk and excess milk, respectively, received from producers during the delivery period by the applicable uniform price(s), adding together the respective totals and adjusting for the butterfat differential provided for in § 928.91: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 928.95 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 928.96 *Marketing services*—(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 928.90 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the delivery period, and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received from producers and to provide producers with market information.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers who are members of a cooperative association, or who have given written authorization for the rendering of marketing services and the taking of deductions therefor by a cooperative association, and for whom the Secretary determines such a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by such producers and on or before the 15th day after the end of such delivery period pay over such deduction to the cooperative association rendering such services.

§ 928.97 *Expenses of administration.* As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all receipts within the delivery period of: (a) Milk from producers including such handler's own production, and (b) other source milk which is classified as Class I.

§ 928.98 *Termination of obligation.* The provisions of this section shall apply to any obligation under this order for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representative all books and records required by this order to be made available, the market administrator may, within the two year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 928.100 *Effective time.* The provisions hereof or any amendment hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 928.101.

§ 928.101 *Suspension or termination.* The Secretary may suspend or terminate this order or any provision hereof whenever he finds this order or any provision

hereof obstructs or does not tend to effectuate the declared policy of the act. This order shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 928.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 928.103 *Liquidation.* Upon the suspension or termination of the provisions hereof, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 928.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

§ 928.111 *Separability of provisions.* If any provision hereof, or its application to any person or circumstances, is held invalid, the application of such provision and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

Filed at Washington, D. C., this 26th day of September 1951.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator.

[F. R. Doc. 51-11767; Filed, Sept. 28, 1951; 8:50 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 694]

MINUMUM WAGE RATES IN INDUSTRIES IN THE VIRGIN ISLANDS

NOTICE OF PROPOSED RULE MAKING

On January 16, 1951, pursuant to section 5 of the Fair Labor Standards Act of 1938, hereinafter called the Act, the Administrator of the Wage and Hour Division, United States Department of Labor, by Administrative Order No. 410, appointed a Special Industry Committee for the Virgin Islands, hereinafter called the Committee, and directed the Committee to investigate conditions in the industries in the Virgin Islands and to recommend minimum wage rates for employees engaged in commerce or in the production of goods for commerce in such industries.

The Committee included three disinterested persons representing the public, a like number representing employers, and a like number representing employees in the industries in the Virgin Islands, and was composed of residents of the Virgin Islands and of the United States outside of the Virgin Islands.

After investigating conditions in the industries in the Virgin Islands, the Committee filed with the Administrator a report containing the Committee's definitions of the industries in the Virgin Islands, and its recommendations for divisions and classifications within such industries and for separable minimum wage rates therefor.

Pursuant to notice published in the FEDERAL REGISTER on June 23, 1951, and circulated to all interested persons, a public hearing upon the Committee's recommendations was held before Hearing Examiner Clifford P. Grant, as presiding officer, in Washington, D. C., on July 24, 1951, at which all interested persons were given an opportunity to be heard. After the hearing was closed the record of the hearing was certified to the Administrator by the presiding officer.

Upon reviewing all the evidence adduced in this proceeding and after giving consideration to the provisions of the act, particularly sections 5 and 8 thereof, I have concluded that the recommendations of the Committee for minimum wage rates in the industries in the Virgin Islands and divisions thereof, as defined, were made in accordance with law, are supported by the evidence adduced at the hearing, and, taking into consideration the same factors as are required to be considered by the Committee, will carry out the purposes of sections 5 and 8 of the act.

I have set forth my decision in a document entitled "Findings and Opinion of the Administrator in the Matter of the Recommendations of the Special Industry Committee for the Virgin Islands for Minimum Wage Rates in the Industries in the Virgin Islands," a copy of which may be had upon request addressed to the Wage and Hour Division, United States Department of Labor, Washington 25, D. C.

Accordingly, notice is hereby given, pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1001) and the rules of practice governing this proceeding (15 F. R. 7029), that I propose to approve the recommendations of the Committee for the industries and to revise this part to read as set forth below to carry such recommendations into effect. Interested parties may submit written exceptions within 15 days from publication of this notice in the FEDERAL REGISTER. Exceptions should be addressed to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C. They should be submitted in quadruplicate, and should include supporting reasons for any exceptions.

Sec.
694.1 Approval of Committee's recommendations.
694.2 Wage rates.
694.3 Notices of order.
694.4 Definitions of industries in the Virgin Islands.

AUTHORITY: §§ 694.1 to 694.4 issued under sec. 8, 63 Stat. 915; 29 U. S. C. 208. Interpret or apply sec. 5, 63 Stat. 911; 29 U. S. C. 205.

§ 694.1 *Approval of Committee's recommendations.* The Committee's recommendations for the industries in the Virgin Islands are hereby approved.

§ 694.2 *Wage rates.*—(a) *Alcoholic Beverages and Industrial Alcohol Industry.* Wages at not less than the following rates per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Alcoholic Beverages and Industrial Alcohol Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce:

(1) For operations performed in the manufacture of rum on the Island of St. Croix, wages at a rate of not less than 40 cents per hour.

(2) For all operations other than those in the manufacture of rum on the Island of St. Croix, wages at a rate of not less than 45 cents per hour.

(b) *Bay Rum and Other Toilet Preparations Industry.* Wages at a rate of not less than 40 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Bay Rum and Other Toilet Preparations Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(c) *Shipping and Transportation Industry.* (1) Wages at a rate of not less than 45 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the General Division of the Shipping and Transportation Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(2) Wages at a rate of not less than 35 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Wind-Driven Vessel Division of the Shipping and Transportation Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(d) *Wholesaling and Trucking Industry.* Wages at a rate of not less than 45 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Wholesaling and Trucking Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(e) *Banking, Insurance, and Real Estate Industry.* Wages at a rate of not less than 50 cents per hour shall be paid under section 6 of the Fair Labor Stand-

ards Act of 1938, as amended, by every employer to each of his employees in the Banking, Insurance, and Real Estate Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(f) *Communications and Other Public Utilities Industry.* Wages at a rate of not less than 45 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Communications and Other Public Utilities Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(g) *Construction Industry.* Wages at a rate of not less than 45 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Construction Industry in the Virginia Islands who is engaged in commerce or in the production of goods for commerce.

(h) *Wearing Apparel Industry.* Wages at a rate of not less than 50 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Wearing Apparel Industry in the Virgin Islands, who is engaged in commerce or in the production of goods for commerce.

(i) *Fruit and Vegetable Packing and Farm Products Assembling Industry.* Wages at a rate of not less than 30 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Fruit and Vegetable Packing and Farm Products Assembling Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(j) *Doll Industry.* Wages at a rate of not less than 45 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Doll Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(k) *Ship and Boat Building and Equipment Industry.* Wages at a rate of not less than 50 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Ship and Boat Building and Equipment Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(l) *Hand-Made Art Linen Industry.* Wages at not less than the following rates per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Hand-Made Art Linen Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(1) For hand-sewing operations, wages at a rate of not less than 20 cents per hour.

(2) For all operations other than hand-sewing, wages at a rate of not less than 35 cents per hour.

(m) *Hand-made Straw Goods Industry.* Wages at not less than the following rates per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Hand-Made Straw Goods Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce:

(1) For hand-weaving and hand-sewing operations, wages at a rate of not less than 15 cents per hour.

(2) For all operations other than hand-weaving and hand-sewing, wages at a rate of not less than 35 cents per hour.

(n) *Meat Packing Industry.* Wages at a rate of not less than 37 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Meat Packing Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(o) *Pearl Button Industry.* Wages at a rate of not less than 45 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Pearl Button Industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(p) *Miscellaneous Industries.* Wages at a rate of not less than 40 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the Miscellaneous Industries in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

§ 694.3 *Notices of order.* Every employer employing any employees so engaged in commerce or in the production of goods for commerce in the industries in the Virgin Islands shall post and keep posted in a conspicuous place in each department of his establishment where such employees are working such notices of this order as shall be prescribed from time to time by the Wage and Hour Division of the United States Department of Labor, and shall give such other notice as the Division may prescribe.

§ 694.4 *Definitions of industries in the Virgin Islands.* The industries in the Virgin Islands to which this wage order shall apply are hereby defined as follows:

(a) *Alcoholic Beverages and Industrial Alcohol Industry.* This industry shall include the manufacture, including, but not by way of limitation, the distilling, rectifying, blending or bottling of rum, gin, whiskey, brandy, liqueurs, cordials, wine, beer, and other alcoholic beverages, and of industrial and other types of alcohol.

(b) *Bay Rum and Other Toilet Preparations Industry.* This industry shall include the manufacture (including bottling and packaging) of bay oil, bay rum, perfumes, colognes, toilet waters, and other similar toilet preparations.

(c) *Shipping and Transportation Industry.* (1) This industry shall include the transportation of passengers and cargo by water or by air, and all activities in connection therewith, including, but not by way of limitation, the operations of common or contract carriers, the operation of piers, wharves and docks, including bunkering, stevedoring, storage, and lighterage operations, and the operation of tourist bureaus, and travel and ticket agencies.

(2) The separable divisions of the Shipping and Transportation Industry are defined as follows:

(i) *General Division.* This division shall include all activities in the Shipping and Transportation Industry other than those included within the Wind-Driven Vessel Division.

(ii) *Wind-Driven Vessel Division.* This division shall include the transportation of cargo and passengers by vessels driven entirely by wind and having no auxiliary propulsion motors.

(d) *Wholesaling and Trucking Industry.* This industry shall include the wholesaling, warehousing, and other distribution of commodities, including, but not by way of limitation, the activities of importers, exporters, wholesalers, public warehouses, and brokers and agents (except realty and financial), including mail order sales agencies and manufacturers' selling agencies; and the industry carried on by any common or contract carrier engaged in the transportation of property by motor vehicle.

(e) *Banking, Insurance and Real Estate Industry.* This industry shall include the business carried on by any banking, insurance, financial, or real estate institution, agency, or enterprise.

(f) *Communications and Other Public Utilities Industry.* This industry shall include the activities carried on by any wire or radio system of communication or by any messenger service; by any concern engaged in the production or distribution of electricity; by any concern engaged in the distribution of water or the operation of sanitation facilities; and by any concern engaged in other public utility operations.

(g) *Construction Industry.* The industry shall include the designing, construction, reconstruction, alteration, repair, and maintenance of buildings, structures, and other improvements, including, but not by way of limitation, factories, highways, bridges, sewers and water mains, irrigation canals and pipe lines, harbors, and airfields; the assembling at the construction site and the installation of machinery and other facilities in or upon such buildings, structures, and improvements; and the dismantling, wrecking or other demolition of such improvements and facilities: *Provided, however,* That this industry shall not include construction carried on by persons, for their own use or occupancy, who are principally engaged in another industry.

(h) *Wearing Apparel Industry.* This industry shall include the manufacture of all wearing apparel except that made entirely by hand.

(i) *Fruit and Vegetable Packing and Farm Products Assembling Industry.* This industry shall include the assembling and preparing for market of fresh fruits and vegetables and other related products.

(j) *Doll Industry.* This industry shall include the manufacture of machine-sewn doll's clothing, and the preparation, assembling, and finishing of dolls with such clothing.

(k) *Ship and Boat Building and Equipment Industry.* This industry shall include the building, repairing, and maintenance of ships and boats, and manufacture and repairing of sails, rope, fenders, and other marine equipment.

(l) *Hand-Made Art Linen Industry.* This industry shall include the manufacture from any woven material of hand-made handkerchiefs and hand-made household art linens, including, but not by way of limitation, table cloths, napkins, bridge sets, luncheon cloths, table covers, and towels.

(m) *Hand-Made Straw Goods Industry.* This industry shall include the manufacture by hand from straw, raffia, sisal, or similar materials, of hats, baskets, purses, mats, trays, bottle coverings, or other articles.

(n) *Meat Packing Industry.* This industry shall include the slaughtering of meat animals and the dressing and packing of meat, and all operations incidental thereto.

(o) *Pearl Button Industry.* This industry shall include the manufacture of buttons and buckles from ocean pearl and other natural shells.

(p) *Miscellaneous Industries.* These industries shall include the manufacture of ice, sugar, jams and jellies, cocoa butter, and flavoring extracts; printing or publishing; the manufacture, processing or assembling of jewelry; and the manufacture of furniture, wooden ware and wooden novelties; and all other industries not included in other specific industries defined in this Part.

Signed at Washington, D. C., this 26th day of September 1951.

WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 51-11755; Filed, Sept. 28, 1951; 8:49 a. m.]

[29 CFR Part 695]

HOMEWORKERS IN INDUSTRIES IN THE VIRGIN ISLANDS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that, pursuant to authority provided in section 6 (a) (2) of the Fair Labor Standards Act of 1938, as amended, the Administrator of the Wage and Hour Division, United States Department of Labor, proposes to amend the regulations contained in this part, relating to homeworkers in industries in the Virgin Islands, in the following manner:

1. Amend section 695.2 to read as follows:

§ 695.2 *Definitions.* (a) The meaning of the terms "person", "employer", "employee", "goods" and "production" as used in this part is the same as in the Fair Labor Standards Act of 1938, as amended.

(b) "Homeworker", as used in this part, means any employee employed or suffered or permitted to perform homework for an employer.

(c) "Homework", as used in this part, means the production by any person in or about a home, apartment, tenement, or room in a residential establishment, of goods for an employer who suffers or permits such production, regardless of the source (whether obtained from an employer or elsewhere) of the materials used by the homeworker in such production; provided that such work is not performed under the constant and direct supervision of an employer or of a responsible supervisor and under such conditions that accurate records of hours worked are maintained or can readily be maintained.

(d) "Operation" means any work or any process other than the distribution of goods to or collection of goods from homeworkers.

2. Amend § 695.12 by adding two new piece rate schedules, designated as Schedules B and C, as follows:

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HAND-MADE STRAW GOODS INDUSTRY IN THE VIRGIN ISLANDS[1]

Design No.	Description of design	Piece rate (based on hourly rate of 15 cents)	Unit
	Hand-weaving straw braid from "bull palm":		
17	Natural color, 1" wide (splitting and weaving)	$0.031	Per yd. of braid.
18	Natural and three colors (splitting, dyeing, and weaving)	.045	Do.
19	Hand-weaving straw braid from "silk palm"	.038	Do.
	Beach hat (sewing):		
20	Stock No. 75	.19	Per hat.
21	Stock No. 76	.15	Do.
22	"Angela" hat, stock No. 80 (sewing)	.09	Do.
23	Cowgirl hat, stock No. 83 (sewing)	.15	Do.
24	Frilled hat, stock No. 84 (sewing)	.15	Do.
25	Scarlett hat, stock No. 85 (sewing)	.32	Do.
26	Garden hat, stock No. 86 (splitting, weaving, and sewing)	.83	Do.
27	Farmer hat, stock No. 87 (sewing)	.30	Do.
28	Child's bonnet, stock No. 90 (sewing)	.18	Do.
29	Jockey cap, stock No. 113 (sewing)	.15	Do.
30	Frenchman hat, 4½" crown, 3½" brim, "silk palm" braid ½" wide (sewing).	.75	Do.
	Hula skirt (splitting, dyeing, weaving, and sewing):		
31	Stock No. 108	.45	Per skirt.
32	Stock No. 109	.60	Do.
33	Stock No. 110	.75	Do.
34	Handbag, stock No. 43 (splitting, weaving, and sewing)	.68	Per bag.
35	"Valentine" purse, stock No. 51 (weaving, and sewing)	1.28	Per purse.
	WAC style bag (weaving and sewing):		
36	Plain, stock No. 52	1.05	Per bag.
37	Embroidered, stock No. 52E	1.20	Do.
	Shopping bag (sewing):		
38	Stock No. 92	.15	Do.
39	Stock No. 93	.20	Do.
40	Stock No. 94	.23	Do.
41	Stock No. 96	.23	Do.
42	Stock No. 104	.45	Do.
43	"Eugenie" bag, stock No. 99 (sewing)	.19	Do.
	Shoulder bag (sewing):		
44	Stock No. 100	.15	Do.
45	Stock No. 101	.30	Do.
46	Thermos bag, stock No. 102 (sewing)	.15	Do.
47	Lunch bag, stock No. 103 (sewing)	.11	Do.
48	Knitting bag, cylindrical shape, 7" x 14", shoulder strap and cover (sewing)	.30	Do.
49	"Dorothy" handbag, stock No. 117 (splitting and weaving)	1.35	Do.
50	Children's "Mafolie" bag, stock No. 119 (splitting and weaving)	.11	Do.
51	Picnic basket, stock No. 3 (splitting, weaving, and sewing)	.30	Per basket.
52	Hat box, stock No. 5 (splitting, weaving, and sewing)	1.05	Per box.
53	Sewing basket, stock No. 9 (splitting and weaving)	.15	Per basket.
	Wood basket (splitting, weaving, and sewing):		
54	Stock No. 31	.23	Do.
55	Stock No. 33	.30	Do.
	Floor mat (splitting, dyeing, weaving, and sewing):		
56	Stock No. 20	.21	Per mat.
57	Stock No. 23	.33	Do.
58	Stock No. 27	.56	Do.
	Hearth broom (tying leaves):		
59	Stock No. 120	.08	Per broom.
60	Stock No. 121	.11	Do.
61	Stock No. 121A	.19	Do.
62	Stock No. 121B	.23	Do.
	Round table mat, stock No. WR 1/5 (peeling and weaving):		
63	8 inches	.38	Per mat.
64	10 inches	.45	Do.
65	12 inches	.60	Do.
	Glass holder (peeling and weaving):		
66	Stock No. WR11	.23	Per holder.
67	Stock No. WR12	.34	Do.
68	Napkin ring, stock No. WR15 (peeling and weaving)	.19	Per ring.
69	Sewing basket, stock No. WR17 (peeling and weaving)	.90	Per basket.
	Picnic basket (peeling and weaving):		
	Stock No. H-2:		
70	Open	2.10	Do.
71	Covered	2.55	Do.
	Stock No. H-3:		
72	Open	2.20	Do.
73	Covered	2.70	Do.
	Stock No. H-10:		
74	Open	2.30	Do.
75	Covered	2.85	Do.
	Stock No. H-11:		
76	Open	2.40	Do.
77	Covered	3.00	Do.

[1] Piece rates based upon time tests conducted on products handled by the Virgin Islands Cooperative, Inc., of St. Thomas. The stock numbers are those used by the company.

SCHEDULE C—PIECE RATE SCHEDULE FOR THE DOLL INDUSTRY IN THE VIRGIN ISLANDS[1]

Design No.	Description of design	Piece rate based on hourly rate of 45 cents	Unit
	Native rag doll, man or woman (cutting cloth, sewing, and dressing doll):		
79	6 inches	$0.45	Per doll.
80	10 inches	.90	Do.

[1] Piece rates based upon time tests conducted on dolls handled by the Virgin Islands Cooperative, Inc., of St. Thomas.

Prior to the final adoption of the above proposed amendments consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C., or to the Territorial Director of the Wage and Hour Division, United States Department of Labor, P. O. Box 3906, Santurce 29, Puerto Rico, within 15 days from publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 26th day of September 1951.

WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 51-11754; Filed, Sept. 28, 1951; 8:49 a. m.]

NOTICES

DEPARTMENT OF DEFENSE

Office of the Secretary

CREMATION URN

NOTICE REGARDING DESIGN AND MANUFACTURE

Statutory authority. Whoever knowingly uses, manufactures, or sells any cremation urn of a design approved by the Secretary of Defense for use to retain the cremated remains of deceased members of the armed forces or an urn which is a colorable imitation of the approved design, except when authorized under regulation made pursuant to law, shall be fined not more than $250 or imprisoned for not more than six months, or both. Public Law 855—81st Congress, 28 September 1950 (18 U. S. C. 710).

Design. The design shown in figure 1 has been approved by the Secretary of Defense for a cremation urn to retain the cremated remains of deceased members of the armed forces. This design is covered by design patents Nos. 150232 and 150233, dated July 13, 1948, which have been assigned by the designer to the United States of America. The period of this approval shall extend indefinitely, without regard to the limitations of patent design protection, subject to such modifications as may be approved by the Secretary of Defense and published herein.

Authority to manufacture. a. No individual or firm will be granted authority to manufacture a cremation urn of the design referred to in paragraph 1, and illustrated in figure 1, for commercial purposes, except as specified in subparagraph b below.

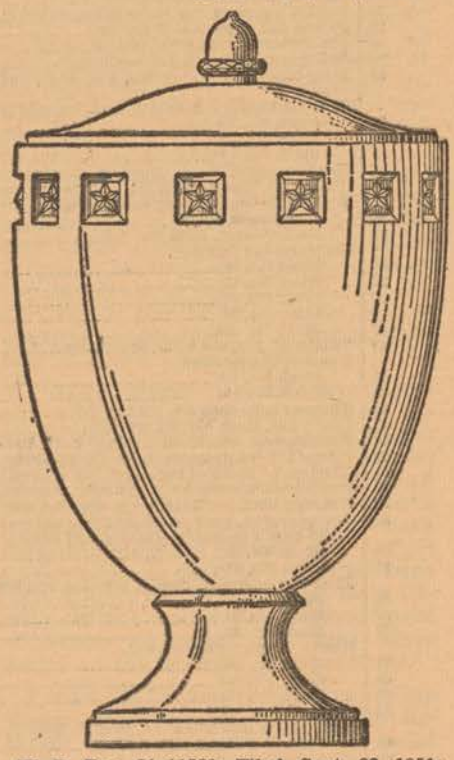
b. The manufacture of the cremation urn covered by these regulations, and the sale thereof, will be effected by government contract exclusively; and any rejected urn shall be destroyed.

Reproduction. No authority will be granted for the manufacture or reproduction of the cremation urn in any size except as authorized in paragraph 3b above.

Use. Use of the cremation urn referred to in these regulations is restricted to the cremated remains of deceased members of the armed forces dying on active duty and for whom care and disposition of remains is prescribed in regulations issued by the Secretaries of the Army, Navy, and Air Force.

Effective this 19th day of September 1951.

ROBERT A. LOVETT,
Secretary of Defense.



[F. R. Doc. 51-11583; Filed, Sept. 28, 1951; 8:45 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Supp. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear, Rainwear and Other Odd Outerwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.166, as amended September 25, 1950; 15 F. R. 5701; 6326).

Carol Fashions, Roseto, Pa., effective 9-25-51 to 9-24-52; five learners (contrast sewing of ladies' blouses).

Colebrook Lingerie, Colebrook, Pa., effective 9-14-51 to 9-13-52; five learners (ladies' rayon and cotton slips).

I. Cramer Manufacturing Co., Broad and Wayne Streets, Haverstraw, N. Y., effective 9-14-51 to 9-13-52; five learners; learners not to be employed at subminimum wage rates in the manufacture of ladies' skirts, jumpers and lined jackets (children's and ladies' outerwear).

Edith Cottons, Inc., 22 Union Street, Cobleskill, N. Y., effective 9-12-51 to 9-11-52; 10 learners (dresses).

Exquisite Form Brassiere, Inc., 432 Lackawanna Avenue, Scranton, Pa., effective 9-25-51 to 9-24-52; for normal labor turnover, 10 percent of the productive factory workers (brassieres).

MacLaren Sportswear Corp., Williamstown, S. C., effective 9-14-51 to 3-13-52; 25 learners may be employed for expansion purposes (sport shirts).

Meyers & Son Manufacturing Co., corner First and Jefferson Streets, Madison, Ind., effective 9-25-51 to 9-24-52; for normal labor turnover, 10 percent of the productive factory workers or 10 learners, whichever is greater (work aprons, boys' dungarees, etc.).

Nanette Manufacturing Co., Inc., Sixth and Hunter Streets, Gloucester, N. J., effective 10-6-51 to 10-5-52; 10 percent of the productive factory force for normal labor turnover (infants' and toddlers' dresses).

North Carol Shirt Co., Kinston, N. C., effective 9–14–51 to 9–13–52; 10 percent of the productive factory force for normal labor turnover (contracting men's shirts).

Oshkosh B'Gosh, Inc., 33 Otter Street, Oshkosh, Wis., effective 10–9–51 to 10–8–52; 10 percent of the productive factory force for normal labor turnover (work pants).

Richmond Shirt Co., Inc., 816 Bridge Street, Richmond, Vt., effective 9–13–51 to 9–12–52; five learners for normal labor turnover (children's shirts and blouses).

Susquehanna Manufacturing Co., Edwardsville, Pa., effective 9–14–51 to 9–13–52; 10 learners to be engaged in the production of ladies' and children's blouses and children's dresses only (dresses and blouses).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as revised January 25, 1950; 15 F. R. 283).

Commonwealth Hosiery Mills, Inc., Randleman, N. C., effective 9–15–51 to 9–14–52; 5 percent of the total number of productive factory workers.

Nu-Vogue Hosiery Mills, Inc., 232 West Harden Street, Graham, N. C., effective 9–15–51 to 5–30–52; 5 additional learners for expansion purposes (supplemental certificate).

Phillips-Russell Hosiery Mills, Inc., Carthage, N. C., effective 9–14–51 to 9–13–52; three learners.

Quitman Manufacturing Co., Quitman, Miss., effective 8–23–51 to 4–22–52; 25 additional learners for expansion purposes only (supplemental certificate) (correction of certificate).

Independent Telephone Industry Learner Regulations (29 CFR 522.82 to 522.93, as amended January 25, 1950; 15 F. R. 398).

Marshall County Telephone Co., Warren, Minn., effective 9–14–51 to 9–13–52.

Cigar Industry Learner Regulations (29 CFR 522.201 to 522.211, as amended January 25, 1950; 15 F. R. 400).

Bayuk Cigars, Inc., Tenth and Bainbridge Streets, Philadelphia 47, Pa., effective 9–17–51 to 9–16–52; 10 percent of the total number of productive factory workers, hand stripping; 160 hours at 60 cents per hour.

Bayuk Cigars, Inc., Ninth and Columbia Avenue, Philadelphia 22, Pa., effective 9–17–51 to 9–16–52; 10 percent of the total number of productive factory workers; hand strip-operators, 320 hours at 60 cents per hour; packers (cigars retailing for more than 6 cents), 320 hours at 60 cents per hour; packers (cigars retailing for less than 6 cents), 160 hours at 60 cents per hour; hand and machine strippers, 160 hours at 60 cents per hour.

Bayuk Cigars, Inc., Mervine and Montgomery Avenue, Philadelphia 22, Pa., effective 9–15–51 to 9–14–52; 10 percent of the total number of productive factory workers; cigar machine operators, 320 hours at 60 cents per hour; packers (retailing for more than 6 cents), 320 hours at 60 cents per hour; hand and machine strippers, 160 hours at 60 cents per hour.

Wolf Bros. & Co., Second and East Streets, Frederick, Md., effective 9–15–51 to 3–14–52; 15 learners to be employed for expansion purposes only; cigar machine operating, 320 hours at 60 cents per hour; machine stripping, 160 hours at 60 cents per hour; packing (cigars retailing for more than 6 cents), 320 hours at 60 cents per hour; packing (cigars retailing for less than 6 cents), 160 hours at 60 cents per hour.

Glove Industry Learner Regulations (29 CFR 522.220 to 522.231, as amended October 26, 1950; 15 F. R. 6888).

The Boss Manufacturing Co., 400–06 Seneca Street, Leavenworth, Kans., effective 9–11–51 to 9–10–52; 10 learners.

Montpelier Glove Co., Inc., 129 North Main Street, Montpelier, Ind., effective 9–13–51 to 9–12–52; 10 percent of the total number of productive factory workers.

Knitted Wear Industry Learner Regulations (29 CFR 522.69 to 522.79, as amended January 25, 1950; 15 F. R. 398).

McCormick Underwear Co., McCormick, S. C., effective 9–15–51 to 3–14–52; 5 additional learners for expansion purposes only (supplemental certificate).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14).

California Artificial Flower Co., 400 Reservoir Avenue, Providence, R. I., effective 9–15–51 to 3–14–52; 10 percent of the total number of productive factory workers; flower making including only the operations of slipping up, heading, tying, pasting, rose-making, branch making, and stemming; 160 hours at 65 cents per hour (decorative flowers).

Cornell-Dubilier Electric Corp., Providence, R. I., effective 9–12–51 to 3–11–52; 200 additional learners for expansion purposes; condenser making operations; 480 hours at 70 cents per hour (electrical capacitators) (supplemental certificate).

Cornell-Dubilier Electric Corp., Providence, R. I., effective 9–12–51 to 3–11–52; 10 percent of the total number of productive factory workers; condenser making operations; 480 hours at 70 cents per hour (electrical capacitators).

Shoe Industry Learner Regulations (29 CFR 522.250 to 522.260; 15 F. R. 6546).

Altoona Shoe Co., Inc., 2817 Industrial Avenue, Altoona, Pa., effective 9–12–51 to 9–11–52; 10 percent of the total number of productive factory workers.

Altoona Shoe Co., Inc., 2817 Industrial Avenue, Altoona, Pa., effective 9–12–51 to 3–11–52; 25 additional learners for expansion purposes. (Supplemental Ctf.)

Puerto Rico: The following special learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, the number of learners, the learner occupations, the length of the learning period and the learner wage rates are indicated, respectively.

Sylvania Electric of Puerto Rico, Inc., Rio Piedras, P. R., effective 9–12–51 to 3–11–52; 71 learners; die repair, 1,040 hours at 29¢ per hour; press operators, 320 hours at 29¢ per hour; mica sorters, 320 hours at 29¢ per hour; mica slitters, 320 hours at 29¢ per hour; quality control inspectors, 320 hours at 29¢ per hour; special inspectors, 320 hours at 29¢ per hour (fabrication of mica).

Univis Optical Corp., Guayama, P. R., effective 9–12–51 to 3–11–52; 63 learners; grinders, 480 hours at 27¢ per hour; polishers, 480 hours at 27¢ per hour; inspectors, 480 hours at 27¢ per hour; assemblers, 540 hours at 27¢ per hour; blockers, 160 hours at 27¢ per hour; generator operators, 160 hours at 27¢ per hour (processing of ophtalmic lenses).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of regulations, Part 522.

Signed at Washington, D. C., this 17th day of September 1951.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 51–11655; Filed, Sept. 28, 1951; 8:46 a. m.]

[Administrative Order 415]

APPOINTMENT OF AUTHORIZED REPRESENTATIVES TO GRANT, DENY, OR CANCEL SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF APPRENTICES

Pursuant to authority under the Fair Labor Standards Act of 1938, as amended, (52 Stat. 1060, as amended), I Wm. R. McComb, Administrator of the Wage and Hour Division, United States Department of Labor, hereby designate and appoint the following persons as my authorized representatives, with full power and authority, pursuant to the provisions of section 14 of the Fair Labor Standards Act of 1938, as amended, and regulations, Part 521 (Title 29, Chapter V, Code of Federal Regulations, Part 521), to grant or deny applications for special certificates for the employment of apprentices, to sign, issue, and cancel special certificates authorizing the employment of apprentices, and to take such other action as may be necessary or appropriate in connection therewith: The Assistant Administrator for Field Operations and the Assistant Chief of the Office of Field Operations, Wage and Hour Division, the regional directors and assistant regional directors of the several regional offices of the Wage and Hour Division as my authorized representatives within their respective regions, the Territorial Representatives for the Territories of Hawaii and Alaska and the Territorial Director for Puerto Rico and the Virgin Islands as my authorized representatives within their respective jurisdictions, and the Commissioner of Labor of North Carolina as my authorized representative within the State of North Carolina.

This order supersedes all previous orders heretofore issued by me or my predecessors in office insofar as such orders authorize certain designated officials to grant or deny applications for special certificates for the employment of apprentices and to sign, issue, and cancel such certificates authorizing the employment of apprentices under section 14 of the Fair Labor Standards Act of 1938, as amended, and regulations, Part 521.

Effective October 1, 1951.

Signed at Washington, D. C., this 26th day of September 1951.

WM. R. MCCOMB,
Administrator, Wage and Hour Division.

[F. R. Doc. 51–11753; Filed, Sept. 28, 1951; 8:49 a. m.]

APPLICATION FOR EXEMPTION OF THE FLORIDA SUGAR CANE PROCESSING AND MILLING INDUSTRY AS AN INDUSTRY OF A SEASONAL NATURE

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW

On April 4, 1951, the Administrator of the Wage and Hour Division gave notice that an application had been filed for a determination that the sugar cane processing and milling industry in Florida is an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Fair Labor Standards Act, as amended, and regulations, Part 526, issued thereunder. A public hearing on this application was held on May 1, 1951, before Nathan Rubinstein, an authorized representative of the Administrator, who was authorized to receive evidence and hear argument for the purpose of determining: (1) Whether that portion of the cane sugar processing and milling branch of the cane sugar industry which is located in Florida is an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Fair Labor Standards Act and Part 526, as amended, of the regulations issued thereunder; and (2) what is the scope of the industry.

Following such hearing, the representative of the Administrator duly made his findings of fact and determined as follows:

(1) Sugar cane is harvested in Florida during a regularly recurring season each year usually beginning in November and ending in March. Cut sugar cane deteriorates rapidly and, therefore, must be processed as quickly as possible. Sugar cane is processed into raw sugar at the sugar cane mills in Florida during a regularly recurring season each year concurrently with the harvesting of sugar cane.

(2) The sugar cane mills in Florida cease production during the remainder of the year except for such work as maintenance, repair, clerical and sales work because, as a result of climate or other natural conditions, sugar cane is no longer available for processing.

(3) The dehydrating of bagasse in Florida takes place during a regularly recurring period each year concurrently with the grinding of sugar cane. The dehydrating activities cease at about the same time the grinding of sugar cane ceases for the reason that "fresh" bagasse is not available during the remainder of the year. The dehydrating operations do not lengthen the operating season of the sugar cane mills in Florida.

(4) The refining of raw sugar produced from sugar cane ground on the premises of the sugar cane mills in Florida takes place coextensively with the grinding of cane, is closely connected with cane processing from which it cannot be separated without considerable loss of efficiency, and does not of itself lengthen the operating period. Lack of proper facilities for storing raw sugar and other economic considerations make it impractical to store raw sugar for later refining. For all practical purposes the refining operations as carried on at present are dependent upon the availability of the sugar cane.

(5) The loading of sugar cane in the fields and its transportation to a sugar cane processing mill when performed by employees of the sugar cane processor are a part of the Florida sugar cane processing and milling industry.

(6) The Florida sugar cane processing and milling industry, as defined in this determination, is an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Fair Labor Standards Act, as amended, and the Regulations, Part 526, issued thereunder.

(7) As used in this determination, the "Florida sugar cane processing and milling industry" consists of the following operations in the State of Florida: the loading of sugar cane in the fields and its transportation to a sugar cane processing mill when performed by employees of the processor; the unloading of sugar cane at the mill; the processing of sugar cane into raw sugar, syrup and molasses; and the following operations when performed on the premises of a sugar cane mill while the sugar cane is being processed: the immediate refining, as one of a connected series of operations, of raw sugar produced from sugar cane ground on the premises; the burning, removing from the premises, or dehydrating of bagasse resulting from the processing of sugar cane; the handling, baling, bagging, packing and storing of the sugar, syrup, molasses, or bagasse; and any operations necessary and incident to the foregoing, including the placing of these products in storage or transportation facilities on or near the premises.

The application is granted in accordance with the above findings.

The aforesaid findings and determination were duly filed with the Administrator on September 20, 1951, at the National Office of the Wage and Hour Division, United States Department of Labor Building, 14th Street and Constitution Avenue NW., Washington 25, D. C., and are available for examination by all interested parties.

Notice is hereby given pursuant to § 526.7 of the regulations that any person aggrieved by the said determination may, within 15 days after the date this notice appears in the FEDERAL REGISTER, file a petition with the Administrator at the National Office of the Wage and Hour Division requesting that he review the action of the said representative upon the record of the hearing. Such petition shall set forth the grounds upon which the petition for review is based. If no petition for review is filed within the 15 days, the findings and determination of the authorized representative of the Administrator will become final and the exemption for the industry as defined in the said findings and determination will become effective as provided in § 526.7 of the regulations.

Signed at Washington, D. C., this 25th day of September 1951.

WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 51-11756; Filed, Sept. 28, 1951; 8:50 a. m.]

Wage and Hour and Public Contracts Divisions

EMPLOYMENT OF HANDICAPPED CLIENTS BY SHELTERED WORKSHOPS

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES

Notice is hereby given that special certificates authorizing the employment of handicapped clients at hourly wage rates lower than the minimum wage rates applicable under section 6 of the Fair Labor Standards Act of 1938, as amended, and section 1 (b) of the Walsh-Healey Public Contracts Act, as amended, have been issued to the sheltered workships hereinafter mentioned, under section 14 of the Fair Labor Standards Act of 1938, as amended (sec. 14, 52 Stat. 1068; 29 U. S. C. 214; as amended 63 Stat. 910) and Part 525 of the regulations issued thereunder, as amended (29 CFR Part 525), and under sections 4 and 6 of the Walsh-Healey Public Contracts Act (secs. 4, 6, 49 Stat. 2038; 41 U. S. C. 38, 40) and Article 1102 of the regulations issued pursuant thereto (41 CFR 201.1102).

The names and addresses of the sheltered workshops to which certificates were issued, wage rates, and the effective and expiration dates of the certificates are as follows:

The Morgan Memorial Co-Operative Industries and Stores, Inc., 89 Shawmut Avenue, Boston 16, Mass.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 45 cents per hour, whichever is higher, and a rate of not less than 25 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective August 1, 1951, and expires July 31, 1952.

Springfield Goodwill Industries, Inc., 139 Lyman Street, Springfield, Mass.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 50 cents per hour, whichever is higher, and a rate of not less than 25 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective August 1, 1951, and expires July 31, 1952.

The New Haven Goodwill Industries, Inc., 238 State Street, New Haven 10, Conn.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 40 cents per hour, whichever is higher, and a rate of not less than 25 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective August 1, 1951, and expires July 31, 1952.

Veterans of Foreign Wars of the United States, Buddy Poppy Department, 406 West Thirty-fourth Street, Kansas City 2, Mo.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry main-

taining approved labor standards, or not less than 15 cents per hour, whichever is higher, and a rate of not less than 10 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective September 14, 1951, and expires August 31, 1952.

Goodwill Industries of Atlanta, Inc., 383 Edgewood Avenue NE., Atlanta, Ga.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 40 cents per hour, whichever is higher; certificate is effective September 1, 1951, and expires July 31, 1952.

Goodwill Industries, 2416 East Ninth Street, Cleveland 15, Ohio; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 20 cents per hour, whichever is higher, and a rate of not less than 15 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective September 1, 1951, and expires August 31, 1952.

Broom Shop, Kansas City Association for the Blind, 1844 Broadway, Kansas City 8, Mo.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 45 cents per hour, whichever is higher, and a rate of not less than 40 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective September 15, 1951, and expires August 31, 1952.

Daisy Ann Manufacturing Company, 2611 McKinney Avenue, Dallas, Tex.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 60 cents per hour, whichever is higher, and a rate of not less than 50 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective September 1, 1951, and expires August 31, 1952.

Harris County Association for the Blind, 1658 Westheimer Road, Houston, Tex.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 30 cents per hour, whichever is higher, and a rate of not less than 20 cents for each new client during his initial 4-week evaluation period in the workship; certificate is effective September 1, 1951, and expires August 31, 1952.

Volunteers of America of Los Angeles, 333 South Los Angeles Street, Los Angeles 13, Calif.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 65 cents per hour, whichever is higher, and a rate of not less than 50 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective August 28, 1951, and expires February 29, 1952.

Volunteers of America of San Francisco, 1955 Post Street, San Francisco, 51, Calif.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 65 cents per hour, whichever is higher, and a rate of not less than 50 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective August 28, 1951, and expires August 27, 1952.

Goodwill Industries of Kentucky, 214 South Eighth Street, Louisville, Ky.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 50 cents per hour, whichever is higher, and a rate of not less than 40 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective August 1, 1951, and expires July 31, 1952.

The employment of handicapped clients in the above-mentioned sheltered workshops under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 525 of the regulations, as amended. These certificates have been issued on the applicants' representations that they are sheltered workshops as defined in the regulations and that special services are provided their handicapped clients. A sheltered workshop is defined as, "A charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and to provide such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature."

These certificates may be cancelled in the manner provided by the regulations, as amended. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 14th day of September 1951.

JACOB I. BELLOW,
Assistant Chief of Field Operations.

[F. R. Doc. 51-11740; Filed, Sept. 28, 1951; 8:47 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 4603, et. al.]

NORTH CENTRAL ROUTE INVESTIGATION CASE

NOTICE OF ORAL ARGUMENT

In the matter of the North Central Route Investigation Case.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding is assigned to be held on October 15, 1951 at 10:00 a. m., e. s. t., in Room 5042, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., before the Board.

Dated at Washington, D. C., September 26, 1951.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
SECRETARY.

[F. R. Doc. 51-11761; Filed, Sept. 28, 1951; 8:50 a. m.]

[Docket Nos. SR-2082, SR-2083]

ADMINISTRATOR OF CIVIL AERONAUTICS ET AL.

NOTICE OF ORAL ARGUMENTS

C. F. Horne, Administrator of Civil Aeronautics, Complainant, vs. George F. Knuth, Respondent, Docket No. SR-2082; C. F. Horne, Administrator of Civil Aeronautics, Complainant, vs. Malcolm S. Wade, Respondent, Docket No. SR-2083.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 1004 (a) of said act, that oral arguments in these cases are assigned to be heard October 25, 1951, at 10:00 a. m., in Room 5042, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., before the Board.

Dated at Washington, D. C., September 25, 1951.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 51-11737; Filed, Sept. 28, 1951; 8:47 a. m.]

FEDERAL POWER COMMISSION

[Project Nos. 1985-1987]

CALIFORNIA-PACIFIC UTILITIES CO.

NOTICES OF ORDERS ISSUING LICENSES (MAJOR)

SEPTEMBER 25, 1951.

Notice is hereby given that, on June 28, 1951, the Federal Power Commission issued its orders entered June 26, 1951, issuing licenses (Major), in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-11722; Filed, Sept. 28, 1951; 8:45 a. m.]

[Project No. 2019]

PACIFIC GAS AND ELECTRIC CO.

NOTICE OF ORDER ISSUING LICENSE (MAJOR)

SEPTEMBER 25, 1951.

Notice is hereby given that, on July 12, 1951, the Federal Power Commission issued its order entered July 11, 1951,

issuing license (Major), in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-11723; Filed, Sept. 28, 1951; 8:45 a. m.]

[Project No. 2023]

EDNA M. GOSS

NOTICE OF ORDER ISSUING LICENSE (MINOR)

SEPTEMBER 25, 1951.

Notice is hereby given that, on August 1, 1951, the Federal Power Commission issued its order entered July 31, 1951, issuing license (Minor), in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-11724; Filed, Sept. 28, 1951; 8:45 a. m.]

[Project No. 2027]

BADLEY INVESTMENT CO.

NOTICE OF ORDER ISSUING LICENSE (MINOR)

SEPTEMBER 25, 1951.

Notice is hereby given that, on June 7, 1951, the Federal Power Commission issued its order entered June 5, 1951, issuing license (Minor), in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-11725; Filed, Sept. 28, 1951; 8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

[Rev. S. O. 876, Gen. Permit 1-L, Amdt. 1]

REQUIREMENTS FOR LOADING OF LUMBER AND LUMBER PRODUCTS

Pursuant to the authority vested in me in paragraph (d) of Revised Service Order No. 876 (16 F. R. 3620, 4276), good cause appearing therefor: *It is ordered,* That:

General Permit No. 1-L is hereby amended by substituting the following paragraph for the third paragraph thereof:

This General Permit shall expire at 11:59 p. m., March 31, 1952, unless otherwise modified, changed, suspended, or revoked.

It is further ordered, That this amendment shall become effective at 11:59 p. m., September 30, 1951; that a copy of this amendment and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this amendment be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 25th day of September 1951.

HOWARD S. KLINE,
Permit Agent.

[F. R. Doc. 51-11729; Filed, Sept. 28, 1951; 8:46 a. m.]

[Rev. S. O. 876, Gen. Permit 2-L, Amdt. 1]

REQUIREMENTS FOR LOADING OF LUMBER AND LUMBER PRODUCTS

Pursuant to the authority vested in me in paragraph (d) of Revised Service Order No. 876 (16 F. R. 3620, 4276), good cause appearing therefor: *It is ordered,* That:

General Permit No. 2-L is hereby amended by substituting the following paragraph for the third paragraph thereof:

This General Permit shall expire at 11:59 p. m., March 31, 1952, unless otherwise modified, changed, suspended, or revoked.

It is further ordered, That this amendment shall become effective at 11:59 p. m., September 30, 1951; that a copy of this amendment and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this amendment be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 25th day of September 1951.

HOWARD S. KLINE,
Permit Agent.

[F. R. Doc. 51-11730; Filed, Sept. 28, 1951; 8:46 a. m.]

[Rev. S. O. 876, General Permit 3-L, Amdt. 1]

REQUIREMENTS FOR LOADING OF LUMBER AND LUMBER PRODUCTS

Pursuant to the authority vested in me in paragraph (d) of Revised Service Order No. 876 (16 F. R. 3620, 4276), good cause appearing therefor: *It is ordered,* That:

General Permit No. 3-L is hereby amended by substituting the following paragraph for the third paragraph thereof:

This General Permit shall expire at 11:59 p. m., March 31, 1952, unless otherwise modified, changed, suspended, or revoked.

It is further ordered, That this amendment shall become effective at 11:59 p. m., September 30, 1951; that a copy of this amendment and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this amendment be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 25th day of September 1951.

HOWARD S. KLINE,
Permit Agent.

[F. R. Doc. 51-11731; Filed, Sept. 28, 1951; 8:46 a. m.]

[Rev. S. O. 876, General Permit 4-L, Amdt. 1]

REQUIREMENTS FOR LOADING OF LUMBER AND LUMBER PRODUCTS

Pursuant to the authority vested in me in paragraph (d) of Revised Service Order No. 876 (16 F. R. 3620, 4276), good cause appearing therefor: *It is ordered,* That:

General Permit No. 4-L is hereby amended by substituting the following paragraph for the third paragraph thereof:

This General Permit shall expire at 11:59 p. m., March 31, 1952, unless otherwise modified, changed, suspended, or revoked.

It is further ordered, That this amendment shall become effective at 11:59 p. m., September 30, 1951; that a copy of this amendment and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this amendment be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 25th day of September 1951.

HOWARD S. KLINE,
Permit Agent.

[F. R. Doc. 51-11732; Filed, Sept. 28, 1951; 8:46 a. m.]

[Rev. S. O. 876, General Permit 5-L, Amdt. 1]

REQUIREMENTS FOR LOADING OF LUMBER AND LUMBER PRODUCTS

Pursuant to the authority vested in me in paragraph (d) of Revised Service Order No. 876 (16 F. R. 3620, 4276), good cause appearing therefor: *It is ordered,* That:

General Permit No. 5-L, is hereby amended by substituting the following paragraph for the third paragraph thereof:

This General Permit shall expire at 11:59 p. m., March 31, 1952, unless otherwise modified, changed, suspended, or revoked.

It is further ordered, That this amendment shall become effective at 11:59 p. m., September 30, 1951; that a copy of this amendment and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car serv-

ice and per diem agreement under the terms of that agreement; and that notice of this amendment be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 25th day of September 1951.

HOWARD S. KLINE,
Permit Agent.

[F. R. Doc. 51-11733; Filed, Sept. 28, 1951; 8:46 a. m.]

[Rev. S. O. 876, General Permit 6-L, Amdt. 1]

REQUIREMENTS FOR LOADING OF LUMBER AND LUMBER PRODUCTS

Pursuant to the authority vested in me in paragraph (d) of Revised Service Order No. 876 (16 F. R. 3620, 4276), good cause appearing therefor: *It is ordered,* That:

General Permit No. 6-L is hereby amended by substituting the following paragraph for the third paragraph thereof:

This General Permit shall expire at 11:59 p. m., March 31, 1952, unless otherwise modified, changed, suspended, or revoked.

It is further ordered, That this amendment shall become effective at 11:59 p. m., September 30, 1951; that a copy of this amendment and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this amendment be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 25th day of September 1951.

HOWARD S. KLINE,
Permit Agent.

[F. R. Doc. 51-11734; Filed, Sept. 28, 1951; 8:46 a. m.]

[Rev. S. O. 876, General Permit 7-L, Amdt. 1]

REQUIREMENTS FOR LOADING OF LUMBER AND LUMBER PRODUCTS

Pursuant to the authority vested in me in paragraph (d) of Revised Service Order No. 876 (16 F. R. 3620, 4276), good cause appearing therefor: *It is ordered,* That:

General Permit No. 7-L is hereby amended by substituting the following paragraph for the third paragraph thereof:

This General Permit shall expire at 11:59 p. m., March 31, 1952, unless otherwise modified, changed, suspended, or revoked.

It is further ordered, That this amendment shall become effective at 11:59 p. m., September 30, 1951; that a copy of this amendment and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement, and that notice of this amendment be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 25th day of September 1951.

HOWARD S. KLINE,
Permit Agent.

[F. R. Doc. 51-11735; Filed, Sept. 28, 1951; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2706]

MYSTIC POWER CO.

NOTICE OF PROPOSED BANK BORROWINGS

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C. on the 25th day of September A. D. 1951.

Notice is hereby given that the Mystic Power Company ("Mystic"), a subsidiary of New England Electric System ("NEES"), a registered holding company, has filed a declaration with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("act"), and has designated sections 6 (a) and 7 of the act as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than October 15, 1951, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues, if any, of fact or law raised by said declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after October 15, 1951, said declaration, as filed or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said declaration which is on file in the office of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Mystic proposes to borrow $50,000 on October 22, 1951, and to issue unsecured promissory notes in evidence thereof. The proposed borrowing will be made in the indicated amounts from the following banks:

Industrial Trust Co.—Westerly Branch, Westerly, R. I.	$30,000
The Phenix National Bank of Providence, R. I.	20,000

The proposed notes will mature six months after the respective dates thereof and will bear interest at the then prime rate of interest, which is presently 2½ percent. If the prime interest rate should exceed 2¾ percent at the time of said borrowings, Mystic will file an amendment to its declaration setting forth the name of the bank or banks, and the terms of the note or notes, including the interest rate, at least five days prior to the execution and delivery thereof, and asks that such amendment become effective without further order of the Commission at the end of the five day period unless the Commission shall have notified the Company to the contrary within said period.

Mystic presently has outstanding $225,000 principal amount of unsecured short-term notes and states that the total amount of such notes outstanding at September 30, 1951, will be $325,000. The proceeds to be derived from the proposed borrowings are to be used to pay a like amount of notes due October 22, 1951, so that upon the issuance of the proposed notes, Mystic's total indebtedness for borrowings will remain at $325,000.

The declaration states that Mystic expects that the proposed note indebtedness will be financed through the issuance of promissory notes issued for a term of not less than one year nor more than three years.

The declaration further states that there are no fees, commissions or other remuneration involved in connection with the proposed transactions except that incidental services will be performed by New England Power Service Company, an affiliated service company, at the actual cost thereof. Such cost is estimated not to exceed $500.

It is represented that Mystic is subject to the jurisdiction of the Connecticut Public Utilities Commission and will comply with the requirements of that Commission with respect to the proposed transactions.

It is requested that the Commission's order herein become effective upon its issuance.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 51-11727; Filed, Sept. 28, 1951; 8:46 a.m.]

[File No. 812-591]

ATLAS CORP. AND NORTHEAST AIRLINES, INC.

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 25th day of September A. D. 1951.

Notice is hereby given that Atlas Corporation (hereinafter called "Atlas"), a registered investment company, and Northeast Airlines, Inc. (hereinafter called "Northeast"), an affiliated person of Atlas, have filed an application pursuant to section 17 (b) of the Investment Company Act of 1940 for an order of the Commission exempting from the provisions of section 17 (a) of the act, the

proposed purchase by Northeast from Consolidated Vultee Aircraft Corporation (hereinafter called "Consolidated"), also an affiliated person of Atlas, of four Convair Model 340 aircraft at a price of $535,000 per plane, together with certain parts and equipment for use in connection therewith at an estimated cost of $681,550.

Atlas is registered under the act as a closed-end, nondiversified management, investment company. Northeast is engaged as a scheduled air carrier of persons, property and mail. Consolidated is engaged in the design, manufacture and sale of military and commercial aircraft.

As of July 19, 1951, Atlas owned 392,663 shares or approximately 47 percent of the 834,515 shares of outstanding common stock and 42,959 shares or approximately 97 percent of the 44,185 shares of outstanding convertible preferred stock of Northeast. Each share of such common stock and preferred stock is entitled to one vote per share so that Atlas owned approximately 49 percent of the outstanding voting stock of Northeast, which by reason of the provisions of section 2 (a) (3) (B) constitutes Northeast an affiliated person of Atlas. Also by reason of such ownership and section 2 (a) (9) of the act Atlas is presumed to control Northeast.

Atlas owns 426,800 shares, or approximately 17.9 percent of the 2,379,298 shares of outstanding voting stock of Consolidated, as a result of which Consolidated is an affiliated person of Atlas by reason of the provisions of section 2 (a) (3) (B) of the act. Also by virtue of an order of the Commission entered May 4, 1948, Atlas is deemed to control Consolidated.

In view of such control of both Northeast and Consolidated by Atlas, section 17 (a) (1) of the act would prohibit Consolidated from selling the aircraft parts, and equipment to Northeast and section 17 (a) (2) of the act would prohibit Northeast from purchasing the aircraft, parts, and equipment from Consolidated in the absence of an order of the Commission pursuant to section 17 (b) of the act.

The application sets forth the following facts in support of the request for an order of exemption.

On May 28, 1951, Northeast filed with the Civil Aeronautics Board (hereinafter called "CAB") an application, dated May 24, 1951, for the approval of the purchase by Northeast from Consolidated of five Convair Model 340 aircraft, together with certain parts and equipment for use in connection therewith, at a price of $535,000 per aircraft. By order of the CAB dated June 29, 1951 (Docket No. 4956), the CAB found that the proposed purchase of such aircraft by Northeast does not appear to be contrary to the public interest nor in violation of the spirit of CAB Order No. E-1437 entered April 23, 1948. The order approved the purchase and provided that the purchase of any additional parts or equipment for use in or on said aircraft, or any repairs, alterations or reworking of said aircraft by Consolidated, shall not require prior approval by the CAB.

Consolidated has been, and is now, offering to manufacture and sell a number of Convair Model 340 aircraft (together with parts and equipment for use therein and thereon). At the outset, Consolidated fixed the price therefor at $520,000 per aircraft, and eighty-six of such aircraft were sold, or committed for sale, to various air carriers at such price. In view of increasing costs of manufacture, Consolidated has now determined to price the last fourteen aircraft of the first one hundred to be manufactured by it at the fixed price of $535,000 each and to increase the price above $535,000 for any additional aircraft in accordance with an escalator clause relating to costs of manufacture, with a maximum of $575,000.

Northeast has informed Consolidated that, subject to the approval of the CAB and the Securities and Exchange Commission, it will purchase four of the fourteen aircraft hereinbefore referred to at a fixed price of $535,000 each, and Consolidated has indicated that such terms are acceptable to it. It is proposed that the purchase price for each aircraft will be payable by Northeast on the following basis: $30,000 at the time of the execution of the formal purchase agreement; an additional $50,000 six months prior to the date fixed for the delivery of the first aircraft; and the balance on delivery of each aircraft. It is proposed that one plane will be delivered in February 1953, a second in June 1953, and the other two in the following month.

The application sets forth the following additional facts in support of the request for an exemption:

The steadily increasing volume of Northeast's operations, as shown by the following table of comparative statistics for the years 1948, 1949, and 1950, indicates that there is a need for the added capacity of the four Convair Model 340 aircraft proposed to be purchased:

	1948		1949		1950	
		Percent		*Percent*		*Percent*
Revenue passengers carried	272,292	100.0	324,963	119.34	372,497	136.80
Revenue miles flown	3,386,881	100.0	4,021,226	118.73	4,235,126	125.05
Revenue passenger miles	52,091,160	100.0	61,957,458	118.94	70,468,046	135.28

The same trend of increased volume of operations has continued in 1951. Thus, Northeast's traffic statistics for the first seven months of 1951 indicate that while Northeast flew approximately 17 percent more revenue miles than during the same period in 1950, Northeast carried almost 30 percent more passengers and flew over 30 percent more passenger miles.

Passenger load factors have also shown improvement, particularly during the last year. Thus, while Northeast's overall system load factor was approximately 48 percent in both 1948 and 1949, it rose to nearly 52 percent for the year 1950. The general improvement in system load factor was even more favorable during the first seven months of 1951 when it exceeded 59 percent. Load factors during the peak summer season period and over particular segments of Northeast's route have been higher and have often indicated capacity operations.

At the present time, Northeast owns and operates eight Douglas DC-3 aircraft and five Convair Model 240 aircraft. The DC-3 aircraft were manufactured for military usage during World War II and were thereafter converted for commercial use and acquired by Northeast. The average age since manufacture of these planes is at the present time approximately 8¾ years. The estimated service life of these aircraft, for depreciation purposes, will terminate on December 31, 1951.

The Convair aircraft were manufactured and acquired during 1949 and have an average age of approximately two years.

It is presently anticipated that some of the DC-3 aircraft, which will be more than ten years old at the time, will be replaced upon the acquisition of the proposed Convair Model 340 aircraft, and that the others will be retained for service on low density route segments and at smaller airports where operations with Convair aircraft are not practicable. Northeast intends to retain its present fleet of Convair Model 240 aircraft.

The spare parts and equipment proposed to be purchased by Northeast for use in and on the Convair Model 340 aircraft, and the estimated cost thereof, include the following:

Engines	$209,550
Propellers	70,000
Airframe parts and tools	200,000
Airframe accessories	85,000
Engine accessories	50,000
Radio and navigation equipment	80,000
Ground equipment	25,000
Raw material inventory	5,000
	681,550

Consolidated has submitted to Northeast a form of purchase agreement (26 pages); a form of letter agreement with respect to the purchase of spare parts and certain other material, attached to which is a form of general conditions (11 pages); a form of supplemental letter agreement with respect to certain informational material, and a form of supplemental letter agreement with respect to the making of certain improvements in the aircraft. Northeast has prepared numerous changes in these forms but these have not yet been agreed upon by Consolidated. In view thereof, there is no definitive form of agreement for the proposed purchase available at this time.

Northeast has not, as of the date hereof, entered into any agreements for financing the proposed purchase of the Convair Model 340 aircraft. At the present time, however, Northeast anticipates that a portion of the purchase price, to the extent of perhaps $1,000,000, will be furnished from Northeast funds and that the balance will be financed by a bank loan. A preliminary discussion with re-

spect to such a loan has been had with representatives of the First National Bank of Boston.

The price to Northeast is the same as the price at which other aircraft of the same model are presently being offered for sale to others and will undoubtedly be lower than the price of any future planes of this model. The current base price of a Martin 4–0–4 (forty passenger) aircraft which is comparable to the Convair Model 340 aircraft (forty-four passenger) is $580,000. Moreover, Northeast's decision to acquire aircraft from Consolidated rather than from some other manufacturer has been reached independently by Northeast's management and has not been influenced in any way by reason of the fact that Atlas is the controlling stockholder of both Northeast and Consolidated. While satisfying Northeast's need for additional modern equipment, the acquisition of the proposed Convair Model 340 aircraft (rather than a plane of some other type and manufacturer) would also result in little disruption in Northeast's operating routine. These aircraft are similar to Northeast's present Convairs in so far as style, operations and maintenance are involved and could be integrated with Northeast's present fleet more simply and efficiently than any other available aircraft. The substantial cost of introducing and maintaining a wholly new type of aircraft would unquestionably be reduced.

All interested persons are referred to said application which is on file in the offices of the Commission for a detailed statement of the proposed transactions and matters of fact and law asserted.

Notice is further given that an order granting the application, in whole or in part and upon such conditions as the Commission may deem necessary or appropriate, may be issued by the Commission on or at any time after October 16, 1951, unless prior thereto a hearing upon the application is ordered by this Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may submit to the Commission in writing, not later than October 12, 1951 at 5:30 p. m., his views on any additional facts bearing upon the application or the desirability of a hearing thereon, or a request to the Commission that a hearing be held thereon. Any such communication or request should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington, D. C.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 51–11726; Filed, Sept. 28, 1951; 8:45 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of the Administrator

[Determination 1, Amdt. 2]

APPROVING EXTENT OF RELAXATION OF CREDIT CONTROLS IN CRITICAL DEFENSE HOUSING AREAS

Section 3, *Areas affected,* of Determination No. 1 approving the extent of the relaxation of real estate construction credit controls in critical defense housing areas published in 16 F. R. 9582, September 20, 1951, as amended at 16 F. R. 9734, is hereby amended by adding the following areas thereto, in view of the joint certification action taken by the Secretary of Defense and the Director of Defense Mobilization dated September 26, 1951 (see Docket Nos. 20 and 93, *infra*), and in view of the defense housing programs of credit restrictions approved for said areas by the Housing and Home Finance Agency (CR 2, 16 F. R. 3303 and CR 3, 16 F. R. 3835):

Area and Date

10. Tooele, Utah---------- June 28, 1951
11. Huntsville, Ala---------- July 10, 1951

ERIC JOHNSTON,
Administrator.

SEPTEMBER 26, 1951.

DETERMINATIONS AND CERTIFICATIONS OF CRITICAL DEFENSE HOUSING AREAS

[Docket No. 20]

SEPTEMBER 26, 1951.

Upon specific data which have been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (1) of the Housing and Rent Act of 1947, as amended, exist in the area designated as

Tooele, Utah, area. (This area is comprised of the portion of Tooele County, Utah east of the Great Salt Lake Desert and Precinct 4 in Salt Lake County.)

Therefore, pursuant to section 204 (1) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

ROBERT A. LOVETT,
Secretary of Defense

C. E. WILSON,
Director of Defense Mobilization.

[Docket No. 93]

SEPTEMBER 26, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (1) of the Housing and Rent Act of 1947, as amended, exist in the area designated as

Huntsville, Alabama, Area. (This area includes all of Madison County, Alabama.)

Therefore, pursuant to section 204 (1) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

ROBERT A. LOVETT,
Secretary of Defense.
C. E. WILSON,
Director of Defense Mobilization.

[Docket Nos. 244 and 245]

SEPTEMBER 26, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (1) of the Housing and Rent Act of 1947, as amended, exist in the areas designated as

Anchorage, Alaska, area; Fairbanks, Alaska, area. (These areas include all areas within a 20-mile radius of the following: Post Office of the City of Anchorage, Post Office of the City of Fairbanks, Eielson Air Force Base, Elmendorf Air Force Base, Ladd Air Force Base, and Fort Richardson.)

Therefore, pursuant to section 204 (1) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

ROBERT A. LOVETT,
Secretary of Defense.

C. E. WILSON,
Director of Defense Mobilization.

[F. R. Doc. 51—11833; Filed, Sept. 27, 1951; 4:46 p. m.]

ASSISTANT ADMINISTRATOR (OPERATIONS)

INTERNAL REDELEGATION OF THE RESERVED AUTHORITY OF THE ADMINISTRATOR

SECTION 1. *Authority.* This action is taken by virtue of the authority vested in me as the Economic Stabilization Administrator by Executive Order 10161 of September 9, 1950; Executive Order 10182 of November 21, 1950; Executive Order 10205 of January 3, 1951; and Executive Order 10276 of July 31, 1951, in order to further define internal organization within the Economic Stabilization Agency in the absence of the Administrator from the office.

SEC. 2. *Internal redelegation.* It is hereby determined and ordered that in the absence of the Administrator and Deputy Administrator, all said authority reserved in the Administrator is hereby internally redelegated to the Assistant Administrator (Operations) to be exercised by said Assistant Administrator during any absence of the Administrator and Deputy Administrator from the office.

SEC. 3. *Effective date.* This order shall become effective immediately upon publication.

Issued: Washington, D. C., September 27, 1951.

ERIC JOHNSTON,
Administrator.

[F. R. Doc. 51–11828; Filed, Sept. 27, 1951; 4:25 p. m.]

[General Order 7]

GO 7—Wage Stabilization for Employees Subject to the Railway Labor Act

REVISION

Sec.
1. Purpose.
2. Legal basis.
3. Organization.
4. Functions of the Railroad and Airline Wage Board.
5. Functions of the Chairman of the Board.
6. Pending actions.
7. Administration.
8. Effect on other orders.

Authority: Sections 1 to 8 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154.

Section 1. *Purpose.* The purpose of this order is to establish a Railroad and Airline Wage Board and to define its functions.

Sec. 2. *Legal basis.* The basic authority for the establishment of a program of railway and airline wage stabilization is contained in Title IV of the Defense Production Act of 1950, as amended (P. L. 774, 81st Cong.; P. L. 96, 82d Cong.). This authority is implemented by the terms of Executive Order No. 10161 of September 9, 1950; Executive Order No. 10182 of November 21, 1950; Executive Order No. 10205 of January 16, 1951; and Executive Order 10233 of April 21, 1951.

Sec. 3. *Organization; Railroad and Airline Wage Board.* There is hereby established a Railroad and Airline Wage Board which shall consist of three members appointed by the Economic Stabilization Administrator, one of whom shall be Chairman.

Sec. 4. *Functions of the Railroad and Airline Wage Board.* (a) The functions of the Railroad and Airline Wage Board, hereinafter referred to as the Board, shall be:

(1) To determine the substantive policies, subject to review and approval by the Administrator, necessary to carry out the wage and salary stabilization program with respect to employees subject to the Railway Labor Act and to issue regulations and orders in connection therewith; and

(2) To make such recommendations to the Economic Stabilization Administrator regarding stabilization policies for employees subject to its jurisdiction as it may deem appropriate.

(b) In the exercise of its responsibilities and functions, the Board shall conform with such standards as may be in effect, established by or pursuant to law, for the purpose of controlling inflationary tendencies.

Sec. 5. *Functions of the Chairman of the Board.* (a) The Chairman shall have the following functions:

(1) *Regulations and policies.* Administer the internal affairs of the Railroad and Airline Wage Board and its regulations, orders, decisions and other actions in conformance with policies determined by the Board and direct the activities of the staff.

(2) *Requests for rulings.* Receive requests for rulings concerning the application and interpretation of the orders, regulations and policies of the Board and make rulings thereon in conformance with the policies of the Board.

(3) *Applications for approval of adjustments.* Receive, process and dispose of applications or requests for approval of increases in or adjustment of wages or salaries or any other compensation for employees subject to the Railway Labor Act where approval is required. Pursuant to section 502 of the Defense Production Act, as amended, in any nondisputed wage or salary adjustments proposed as a result of voluntary agreement through collective bargaining, mediation, or otherwise, the Chairman of the Board, as a prerequisite to effecting such adjustments, shall make specific findings and certification that the changes proposed by such adjustments are consistent with such standards as may be then in effect, established by or pursuant to law, for the purpose of controlling inflationary tendencies. Such findings and certification shall then be submitted to the Administrator for approval, together with a statement of facts in support thereof. The proposed adjustments, after approval by the Economic Stabilization Administrator, shall then be conclusive and it shall then be lawful for the employees and carriers, by agreement, to put into effect the proposed adjustments with respect to which such findings and certification were made.

(4) *Findings and certification in disputed cases.* Any arbitration board, emergency board or other agency provided for by the Railway Labor Act, including any panel or panel board established by the President, for the adjustment of disputes arising under such Act, may file its specific findings and certification, in accordance with section 502 of the Defense Production Act, as amended, that the changes proposed by the settlement or recommended settlement of such dispute are consistent with the standards then in effect for the stabilization of wages, salaries and other compensation generally. Such findings and certification should be accompanied by a statement of facts in support thereof, filed with the Chairman, Railroad and Airline Wage Board, as a basis for his recommendation to the Administrator for final consideration and approval. The proposed adjustments, after approval by the Economic Stabilization Administrator, shall then be conclusive and it shall then be lawful for the employees and carriers, by agreement, to put into effect the proposed adjustments with respect to which such findings and certification were made.

(5) *Application of stabilization policy.* Upon request of any arbitration board or of any emergency board established pursuant to sections 7 or 10 of the Railway Labor Act, to advise such board respecting the application of stabilization policy to any situation before such board for consideration.

Sec. 6. *Pending actions.* All pending petitions and applications for rulings heretofore filed with the Temporary Emergency Railroad Wage Panel, the Wage Stabilization Board, the Wage and Hour and Public Contracts Division of the United States Department of Labor or the Office of Salary Stabilization, relating to employees subject to the Railway Labor Act, shall be deemed to have been filed with the Railroad and Airline Wage Board and the aforementioned agencies shall transfer such pending applications and petitions to the Railroad and Airline Wage Board.

Sec. 7. *Administration.* (a) Until the members of the Railroad and Airline Wage Board are appointed, the Chairman of the Board is empowered to perform all of the Board functions outlined in this order.

(b) The Railroad and Airline Wage Board shall share the administrative service facilities of the Wage Stabilization Board relating to budget, fiscal, personnel, supply, space, and other administrative management matters.

Sec. 8. *Effect on other orders.* (a) The Railroad and Airline Wage Board is subject to the terms of all orders contained in the Manual of Orders of the Economic Stabilization Agency.

(b) General Order No. 3 and General Order No. 8, as amended, are specifically superseded to the extent inconsistent herewith. General Order No. 7, dated April 9, 1951, including Amendment No. 1 thereto, dated August 17, 1951, is herewith superseded. This order also supersedes or amends any other orders or parts of orders inconsistent with the provisions hereof.

Issued: Washington, D. C., September 27, 1951.

Eric Johnston,
Administrator.

[F. R. Doc. 51-11830; Filed, Sept. 27, 1951; 4:25 p. m.]

Office of Price Stabilization

[Delegation of Authority 22]

Directors of Regional Offices

DELEGATION OF AUTHORITY TO PROCESS REPORTS OF PROPOSED CEILING PRICES FOR SALES AT RETAIL BY RESELLERS PURSUANT TO SECTION 5 OF CPR 67

By virtue of the authority vested in me as Director of Price Stabilization and pursuant to the Defense Production Act of 1950, as amended, and Executive Order 10161 (15 F. R. 6105) and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Delegation of Authority is hereby issued.

Authority is hereby delegated to the Directors of the Regional Offices of Price Stabilization to approve, pursuant to section 5, CPR 67, a ceiling price for sales at retail proposed by a reseller under CPR 67, disapprove such a proposed ceiling price, establish a different ceiling price by order, or request further information concerning such a ceiling price. The authority herein delegated may be redelegated to the Directors of the District Offices of Price Stabilization.

This delegation of authority shall take effect on September 29, 1951.

Edward F. Phelps, Jr.,
Acting Director of Price Stabilization.

September 28, 1951.

[F. R. Doc. 51-11853; Filed, Sept. 28, 1951; 10:54 a. m.]